

भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० ३७] नई दिल्ली, शनिवार, सितम्बर १४, १९६८/भाद्र २३, १८९०
 No. 37] NEW DELHI, SATURDAY, SEPTEMBER 14, 1968/BHADRA 23, 1890

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

नोटिस

NOTICE

नीचे विज्ञे भारत के असाधारण राजपत्र ३१ अगस्त, १९६८ तक प्रकाशित किये गये :—

The undermentioned Gazettes of India Extraordinary were published up to the 31st August 1968.

Issue No.	No. and Date	Issued by	Subject
285	S.O. 2874, dated 21st August, 1968.	Ministry of Commerce	Further amendment to the Exports (Control) Order, 1968.
286	S.O. 2875, dated 22nd August, 1968.	Do.	Further amendment to the Exports (Control) Order, 1968.
287	S.O. 2876, dated 22nd August, 1968.	Ministry of Labour, Employment and Rehabilitation.	To transfer the monthly provident fund contributions to the Board of Trustees.
	S.O. 2877, dated 22nd August, 1968.	Do.	Directions regarding accumulations out of provident fund contributions, etc.
288	S.O. 2878, dated 22nd August, 1968.	Ministry of Commerce.	Declaring tyres and tubes of cars and tractors as an essential commodity.

एस० ओ० २८७९ दिनांक वाणिज्य मंत्रालय कारों और ट्रैक्टरों के टायर और ट्यूब को आवश्यक वस्तु घोषित करना ।
 २२ अगस्त, १९६८

Issue No.	No. and Date	Issued by	Subject
289	S.O. 2880, dated 23rd August, 1968.	Directorate General of Health Services	Electing seven medical members to the Medical Council of India.
290	S.O. 2881, dated 24th August, 1968.	Ministry of Commerce.	Quality Control and pre-shipment inspection of crushed bones, hooves and horns.
291	S.O. 2882, dated 24th August, 1968.	Ministry of Finance	Notifying the Kerala State Industrial Development Corporation Ltd., Trivandrum for the purposes of Income tax Act, 1961.
292	S.O. 2883, dated 24th August, 1968.	Central Board of Direct Taxes.	The Income tax (Fifth Amendment) Rules, 1968.
293	S.O. 2884, dated 24th August, 1968.	Cabinet Secretariat	Further amendment in the Government of India (Allocation of Business) Rules, 1961.
294	S.O. 2885, dated 26th August, 1968.	Ministry of Finance	Extending up to the 30th day of September, 1968, the period within which the declaration referred to in sub-section (7) of section 17 of the Gold (Control) Ordinance, 1968 shall be made.
295	S.O. 2886, dated 26th August, 1968.	Ministry of Petroleum and Chemicals.	The Drugs Prices (Display and Control) Amendment Order, 1968.
296	S.O. 2887, dated 27th August, 1968.	Election Commission of India.	Calling upon the elected members of the Legislative Assembly of the State of Rajasthan to elect a person to fill the vacancy in the Council of States.
	S.O. 2888, dated 27th August, 1968.	Do.	Appointment of dates for the above election (S.O. 2887).
	S.O. 2889, dated 27th August, 1968.	Do.	Fixation of hours for the above election (S.O. 2887).
	S.O. 2890, dated 27th August, 1968.	Do.	Designating the Secretary Rajasthan legislative Assembly to the Returning Officer for the above election (S.O. 2887).
	S.O. 2891, dated 27th August, 1968.	Do.	Appointing the Deputy Secretary, Rajasthan Legislative Assembly to assist the Returning Officer for the above election (S.O. 2887).
297	S.O. 2948, dated 27th August, 1968.	Ministry of Information and Broadcasting.	Approval of the films as specified therein.

Issue No.	No. and Date	Issued by	Subject
298	S.O. 2949, dated 27th August, 1968.	Ministry of Commerce.	Specifying in the Schedule therein the exceptions, restrictions, and limitations subject to which the Companies Act, 1956 (1 of 1956) shall continue to apply to the industrial undertaking in the same manner as it applied thereto before the issue of the notified order under section 18A.
299	S.O. 2950, dated 27th August, 1968.	Do.	Authorising Shri G. K. Seth to take over the management of the Swadeshi Cotton and Flour Mills Ltd., Indore.
300	S.O. 2951, dated 28th August, 1968.	Election Commission of India.	Substitution in the notification No. 56/67-III (S.O. 3483) dated 26th September, 1967.
301	S.O. 2952, dated 29th August, 1968.	Ministry of Labour, Employment and Rehabilitation.	Appointing the 1st day of September, 1968 on which the provisions of Chapter IV of the Employees State Insurance Act, 1948 shall come into force in the areas in the State of Madras mentioned therein.
302	S.O. 2953, dated 30th August, 1968.	Ministry of Commerce.	Amendment in notification No. S.O. 771, dated 6th March, 1965.
	S.O. 2954, dated 30th August, 1968.	Do.	The Export of Fish and Fish Products (Inspection) Amendment Rules, 1968.
303	S.O. 2955, dated 31st August, 1968.	Ministry of Industrial Development and Company Affairs.	Delegation of powers to the State Government of Bihar for the management of M/s. Hindustan Vehicles Limited Patna.
	एस० ओ० 2955, दिनांक 31 अगस्त, 1968	औद्योगिक विकास तथा समवाय कार्य मंत्रालय पटना का प्रबन्ध करने के लिए बिहार राज्य सरकार को शक्ति का प्रदान करना।	
304	S.O. 2957, dated 31st August, 1968.	Ministry of Law	Bye-election to fill casual vacancy in the Council of States of the State of Gujarat.
305	S.O. 2958, dated 31st August, 1968.	Ministry of Finance	Direction that with effect from the 1st September, 1968 the Life Insurance Corporation of India shall consist of the members mentioned therein.

ऊपर लिखे असाधारण राजपत्रों की प्रतियां प्रकाशन प्रबन्धक सिविल लाइन्स, दिल्ली के नाम मांगपत्र भेजने पर भेज दी जायेंगी। मांगपत्र प्रबन्धक के पास इन राजपत्रों के जारी होने की तारीख से 10 दिन के भीतर पहुंच जाने चाहिए।

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

भाग II—खण्ड 3—उपखण्ड (ii)

PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों और (संघ क्षेत्र प्रशासन को छोड़ कर)

केन्द्रीय प्राधिकरणों द्वारा जारी किए गए विधिक आदेश और अधिसूचनाएं।

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

MINISTRY OF INDUSTRIAL DEVELOPMENT & COMPANY AFFAIRS

(Department of Industrial Development)

New Delhi, the 29th August 1968

S.O. 3145.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Small Scale Industries Organisation (Class III and Class IV posts) Recruitment Rules, 1960, namely:—

- (1) These rules may be called the Small Scale Industries Organisation (Class III and Class IV posts) Recruitment Amendment Rules, 1968.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Small Scale Industries Organisation (Class III and Class IV posts) Recruitment Rules, 1960, in Schedule I, against items 3 and 4 relating respectively to the posts of Lower Division Clerk and Stenographer and in Schedule II against items 3, 4, 5, and 6 relating respectively to the posts of Peon, Farash, Watchman and Sweeper:—

Under column 10,—

for the entry "Cent percent by direct recruitment", the entry "By Direct recruitment failing which by transfer" shall be substituted.

This Ministry's notification No. S.O. 1189 dated 30th March, 1968 is hereby cancelled.

[No. F. 4/6/66-SSI(C).I]

O. R. PADMANABHAN, Under Secy.

(Department of Industrial Development)

ORDER

New Delhi, the 21st August, 1968

S.O. 3146/IDRA/6/7/68.—In exercise of the powers conferred by Section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951) read with Rules 2, 5 and 8 of the Development Councils (Procedural) Rules, 1952, the Central Government hereby appoints, till the 8th August, 1969. Sarvashri Shantilal M. Mehta, Surendra M. Mehta and P. N. Maitra to be members of the Development Council for Man-made Textiles established by the Order of the Government of India in this Ministry's Order No. IDRA/6/5/67, dated the 9th August, 1967 and directs that the following amendments shall be made in the said Order, namely:—

In the said Order, for the entries Nos. 8, 25 and 28, relating to Shri J. G. Parikh, Dr. K. H. Thanavala and Shri D. H. Vora, respectively, the following entries shall be substituted, namely:—

- "8. Shri Shantilal M. Mehta, M.Sc., Tech., Manchester. President, The Silk and Art Silk Mills' Research Association, Dr. Annie Besant Road, Worli, Bombay-25, D.D.
25. Shri Surendra M. Mehta, Director. M/s. Ambika Silk Mills Co. Ltd., No.11-12. Haines Road, Opp. Race Course, Bombay-13.
28. Shri P. N. Maitra, Deputy Director, Office of the Textile Commissioner, Post Bag No. 10004, Bombay-1."

In the said Order, for the existing Para 2, the following para shall be substituted, namely:—

"2. Shri P. N. Maitra, Deputy Director, Office of the Textile Commissioner, Bombay, is hereby appointed to carry on the functions of the Secretary to the said Development Council".

[No. 2(1)-Dev. Council/66-L.C.]

R. C. SETHI, Under Secy.

Department of Industrial Development

(Indian Standards Institution)

New Delhi, the 23rd August 1968

S.O. 3147.—The Certification Marks Licences, details of which are given in the Schedule given hereafter, have lapsed or their renewal deferred :

SCHEDULE

Sl. No.	Licence No. and Date	Licensee's Name and Address	Article/Process and the Relevant IS: No.	S.O. Number and Date of the Gazette notifying Grant of Licence	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
1	CM/L-326 26-7-1961	Tata Fison Industries Ltd., 20 Howrah Road, Salkia, Calcutta.	BHC Emulsifiable Concentrates IS: 632-1958	S.O 1948 dated 19-8-1961	Lapsed after 31-7-1968
2	CM/L-426 30-6-1962	Asian Cables Corpn. Ltd., Kotakwadi, Pokhran Road, Majiwade, Thana (Maharashtra) having their Regd. Office at 254/D2, Dr. Annie Beasant Road, Worli, Bombay-18.	Rubber Insulated Cables IS : 434 (Parts I & II)-1964	S. O. 2146 dated 14-7-1962	Lapsed after 30-6-1968
3	CM/L-502 24-1-1963	Abrol Engg Co., Circular Road, Kapurthala (Punjab)	Fuse bases and fuse carriers rewirable type, capacity 15amp 250 volts and 30 amps 500 volts-IS: 2086-1963	S. O. 484 dated 16-2-1963	It was deferred after 15-2-1966 and has now to be treated as lapsed after that date.
4	CM/L-688 17-6-1964	Shree Maharaaja Steel Mills Pvt. Ltd., Kapurthala (Lessee Punjab Steel Corpn., Industrial Area, Kapurthala) (Pb.)	Structural Steel (Standard Quality) IS : 226-1962	S. O. 2590 dated 1-8-1964	These were deferred after 30-6-1968 and have now to be treated as Lapsed after that date.
5	CM/L-689 17-6-1964	Do.	Structural Steel (Ordinary Quality) IS: 1977-1962	Do.	

6	CM/L-692 17-6-1964	Flintrock Products Pvt. Ltd., Belvedere Road, Mazagaon, Bombay	BHC Emulsifiable Concentrates - IS: 632-1958	Do.	Lapsed after 15-7-1968
7	CM/L-693 17-6-1964	Flintrock Products Pvt. Ltd, Belvedere Road, Mazagaon, Bombay	DDT Emulsifiable Concentrates - IS : 633-1956	Do.	Lapsed after 15-7-1968
8	CM/L-694 17-6-1964	Flintrock Products Pvt. Ltd., Belvedere Road, Mazagaon, Bombay	Aldrin Emulsifiable Concentrates- IS : 1307-1958	Do.	Lapsed after 15-7-1968
9	CM/L-712 29-6-1964	Sanganeria Co Pvt. Ltd., 9, Jagmohan Mullick Lane, Calcutta	Structural Steel (Standard Quality) IS: 226-1962	Do.	Deferred after 31-7-1968
10	CM/L-713 29-6-1964	Do.	Structural Steel (Ordinary Quality) IS: 1977-1962	Do	Deferred after 31-7-1968
11	CM/L-726 29-6-1964	Ludhiana Steel Rolling Mills, Ludhiana (Pb.)	Structural Steel (Standard Quality) IS: 226-1962	Do.	Deferred after 31-7-1968
12	CM/L-727 29-6-1964	Do.	Structural Steel (Ordinary Quality) IS:1977-1962	Do.	Deferred after 31-7-1968
13	CM/L-738 10-7-1964	Flintrock Products Pvt. Ltd., Belvedere Road, Mazagaon, Bombay	Aldrin Dusting Powders IS:1308-1958	S.O. 3487 dated 3-10-1964	Lapsed after 31-7-1968
14	CM/L-767 24-8-1964	Indian Rolling Mills, 79, Fazalganj, Kanpur (U.P.)	Structural Steel (Standard Quality) IS: 226-1962	S.O. 3553 dated 10-10-1964	Deferred after 15-7-1968
15	CM/L-768 24-8-1964	Do.	Structural Steel (Ordinary Quality) IS : 1977-1962	Do.	Deferred after 15-7-1968
16	CM/L-815 30-10-1964	Shanmuga Sago Factory, Shevapet, Saleem-2 (Madras State).	Sago (Saboodana)-IS : 899-1956	S.O. 4038 dated 28-11-1964	These were deferred after 15-11-1967 and have now to be treated as lapsed after that date.
17	CM/L-816 30-10-1964	Ponji Sago Factory, Gwaluor Road, Saleem-5 (Madras State).	Do.]	Do.	
18	CM/L-1110 8-7-1965	The Aluminium Industries Ltd., Ramachandrapuram, Hyderabad-32.	Polythene Insulated and PVC Sheathed Cables IS: 1596-1962.	S.O. 2667 dated 28-8-1965	Deferred after 15-7-1968.
19	CM/L-1185 17-12-1965	Grandlay Electricals (India), 456/426 Military Parade Rd., Radio Colony, Delhi-9 having their office at 3/4 Asaf Ali Road, New Delhi-1.	Single Core (Unsheathed) P.V.C. Insulated Cables with Aluminium Conductors IS : 694 (Part II)-1964.	S.O. 410 dated 5-2-1966.	Deferred after 30-6-1968.





(1)	(2)	(3)	(4)	(5)	(6)
20	CM/L-1295 30-6-1966	M/s. Ravi Paints & Chemicals Ltd., 7, P.H. Road, Madras-19, having their office at 85/87 Armenian St., Ltd., Madras-1.	Enamel, Synthetic, Exterior, Type 1, (a) Undercoating, (b) Finishing, Colour As Required IS: 2932-1964.	S.O. 2248 dated 30-7-1966.	Deferred after 15-7-1968.
21	CM/L-1294 30-6-1966.	Welding Electrodes and Metallic Alloys Ltd., Plot No. 4, Kalwe Industrial Area, Thana-Belapur Road, Dist. Thana (Maharashtra)	Covered Electrodes for Metal Arc Welding of Mild Steel of Normal Penetration Type— IS: 814-1963.	S.O. 2248 dated 30-7-1966.	Deferred after 15-7-1968.
22	CM/L-1297 13-7-1966.	Agarwal Hardware Works Pvt. Ltd., 2 Ishwar Chatterjee Road, Sodepur 24 Parganas) having their Office at 167, Chittaranjan Avenue, Calcutta-7.	Hot Rolled, Carbon Steel Sheet and Strip-(Baling) IS: 1029-1956.	S.O. 2600 dated 27-8-1966.	Deferred after 31-7-1968.
23	CM/L-1474 13-7-1967.	Goa Pesticides Pvt. Ltd., Fatorda, Margao (Goa).	Dieldrin Emulsifiable Concentrates—IS: 1054-1962.	S.O. 2949 dated 26-8-1967.	Deferred after 31-7-1968.
24	CM/L-1477 13-7-1967.	Shree Marodia Metal Industries, 48 Mali Panchghora St., Howrah having their Office at 21/B Canning Street, Calcutta-1.	Wrought Aluminium Utensils, S18 Grade IS: 21-1959.	Do.	Lapsed after 15-7-1968.

[No. CMD/13:14.]

S.O. 3148.—In pursuance of sub-rule (1) of rule 4 of the Indian Standards Institution (Certification Marks) Rules, 1955 the Indian Standards Institution hereby notifies that the Standard Mark(s) design(s) of which together with the verbal description of the design(s) and the title(s) of the relevant Indian Standard(s) are given in the Schedule hereto annexed, have been specified.

These Standard Mark(s) for the purpose of the Indian Standards Institution (Certification Marks) Act, 1952 and the Rules and Regulations framed thereunder, shall come into force with effect from the dates shown against each:

THE SCHEDULE

Serial No.	Design of the Standard Mark	Product/Class of Product	No. and Title of the Relevant Indian Standard	Verbal description of the Design of the Standard Mark	Date of Effect.
(1)	(2)	(3)	(4)	(5)	(6)
1	IS: 2365 	Steel wire suspension ropes for lifts and hoists.	IS: 2365-1963 Specification for steel wire suspension ropes for lifts and hoists.	The monogram of the Indian Standards Institution, consisting of letters 'ISI' drawn in the exact style and relative proportions as indicated in col. (2), the number designation of the Indian Standard being superscribed on the top side of the monogram as indicated in the design.	1 August 1968.
2	IS: 2623 	Guide and rubbing ropes.	IS: 2623-1966 Specification for guide and rubbing ropes.	Do.	1 August 1968.
3	IS: 3829 	Horizontal-cylindrical and horizontal-rectangular steam sterilizer, pressure type.	IS: 3829-1966 Specification for horizontal-cylindrical and horizontal rectangular steam sterilizer, pressure type (for hospital use).	The monogram of the Indian Standards Institution, consisting of letters 'ISI' drawn in the exact style and relative proportions as indicated in col. (2), the number designation of the Indian Standard being superscribed on the top side of the monogram as indicated in the design.	16 August 1968.
4	IS: 3830 	Water stills for pyrogen-free distilled water.	IS: 3830-1966 Specification for water stills for pyrogen-free distilled water.	Do.	16 August 1968.

S.O. 3149.—In pursuance of sub-regulation (3) of Regulation 7 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that the marking fee(s) per unit for various products, details of which are given in the Schedule hereto annexed, have been determined and the fee(s) shall come into force with effect from the dates shown against each:

THE SCHEDULE

Serial No.	Product/Class of Products	No. and Title of Relevant Indian Standard	Unit	Marking Fee per Unit	Date of Effect
(1)	(2)	(3)	(4)	(5)	(6)
1	Steel wire suspension ropes for lifts and hoists	IS: 2365-1963 Specification for steel wire suspension ropes for lifts and hoists.	One tonne	Rs. 1.50	1 August 1968.
2	Guide and rubbing ropes.	IS: 3623-1966 Specification for guide and rubbing ropes	One tonne	Rs. 1.50.	1 August 1968.
3	Horizontal-cylindrical and horizontal-rectangular steam sterilizer, pressure type.	IS: 3829-1966 Specification for horizontal-cylindrical and horizontal-rectangular steam sterilizer, pressure type (for hospital use)	One sterilizer	Rs. 10.00	16 August, 1968
4	Water stills for pyrogen-free distilled water.	IS: 4830-1966 Specification for water stills for pyrogen-free distilled water.	One water still	Rs. 10.00	16 August 1968

[No. CMD/13:10.]

S.O. 3150.—In pursuance of sub-regulation (1) of Regulation 8 of the Indian Standards Institution (Certification Marks) Regulations, 1955, as subsequently amended, the Indian Standards Institution hereby notifies that twenty-six licences, particulars of which are given in the Schedule hereto annexed, have been granted authorizing the licensees to use the Standard Mark :

THE SCHEDULE

Serial No.	Licence No. and date	Period of Validity		Name and Address of the Licensee	Article/Process covered by the licence	Relevant Indian Standard
		From	To			
1	2	3	4	5	6	7
1	CM/L-1732 2-7-1968	16-7-68	15-7-69	M/s. Chambal Valley Chemicals B-5, Industrial Estate, Kota-1 (Rajasthan).	Endrin emulsifiable concentrates.	IS: 1310-1958 Specification for endrin emulsifiable concentrates.
2	CM/L-1733 8-7-1968	16-7-68	15-7-69	M/s. Sun Industries, 93, Jangalpur Road, Dum Dum, Near Airport Gate No. 3, Birati, Calcutta-51 having their office at 1/B, Rama Kanta Sen Lane, Calcutta-4.	Tea-chest plywood panels.	IS: 10-1964 Specification for plywood tea-chests. (Second Revision).
3	CM/L-1734 10-7-1968	16-7-68	15-7-69	M/s. Freewill & Co., S-33, Industrial Area, Julundur City.	(i) Football (laceless). (ii) Basketball (laceless) (iii) Volleyball (laceless)	IS: 417-1965 Specification for footballs, volleyballs, basketballs and water polo balls (Revised).
4	CM/L-1735 10-7-1968	16-7-68	15-7-69	M/s. Rathi Steel Rolling Mills Private Ltd., Loni Road, Shahdara, Delhi-32.	Cold twisted steel bars for concrete reinforcement.	IS: 1786-1966 Specification for cold twisted steel bars for concrete reinforcement (revised).
5	CM/L-1736 11-7-68	16-7-68	15-7-69	M/s. Pesticides Ltd., Chitalsar Manpada, Ghodbunder Road, Thana, having their registered office at 28, Sayani Road, Bombay-28.	Zinc phosphide, Technical	IS: 1251-1958 Specification for zinc phosphide, Technical.

1	2	3	4	5	6	7
6	CM/L-1737 11-7-1968	16-7-68	15-7-69	M/s. C & E Morton (India) Ltd., P.O. Marhowrah, Distt. Saran, Bihar.	Condensed milk	IS: 1166-1957 Specification for condensed milk.
7	CM/L-1738 11-7-1968	16-7-68	15-7-69	M/s. Central Insecticides & Fer- tilizers, Saki Naka, Vihar Lake Road, Kurla, Bombay-70 hav- ing their office at 110, Indus- trial Estate, Indore (M.P.)	D D T Dusting powders.	IS: 564-1961 Specification for DDT dusting powders.
8	CM/L-1739 11-7-1968	16-7-68	15-7-69	M/s. Mukand Iron & Steel Works Ltd., Agra Road, Kurla, Bombay-70.	Hot rolled mild steel and medium tensile steel deformed bars for concrete reinforcement.	IS: 1139-1966 Specification for hot rolled mild steel and medium tensile steel deformed bars for concrete reinforcement (revised).
9	CM/L-1740 11-7-1968	16-7-68	15-7-69	Do.	Cold twisted steel bars for con- crete reinforcement.	IS: 1786-1966 Specification for cold twisted steel bars for concrete reinforcement. (revised).
10	CM/L-1741 12-7-1968	16-7-68	15-7-69	M/s. Surrendra Industries (Bom- bay) Private Ltd., Pokhran Road, Majiwada Village, Thana (Distt. Thana) having their office at 24, Baroda Street, Bombay-9.	Structural steel (Standard quality)	IS: 226-1962 Specification for structural steel (standard quality) (third revision).
11	CM/L-1742 12-7-1968	16-7-68	15-7-69	Do.	Structural steel (ordinary quality).	IS: 1977-1962 Specification for structural steel (ordinary quality).
12	CM/L-1743 15-7-1968	16-7-68	15-7-69	M/s. Indian Copper Corpora- tion Ltd., Moubandar Works, Ghatsila P.O. Distt. Singh- bhum, S.E. Rly., Bihar.	Brass sheet/strip, CuZn 30, Cu- Zn 37, and CuZn 40.	IS: 410-1967 Specification for rolled brass plate sheet, strip and foil (revised).

13	CM/L-1744 15-7-1968	16-7-68	15-7-69	M/s. Sindichem Private Ltd., Sindi, Distt. Wardha (Maharashtra) having their Regd. office at Dharaskar Building, Ramdaspath, Nagpur-1.	BHC dusting powders.	IS: 561-1962 Specification for BHC dusting powders.
14	CM/L-1745 15-7-1968	16-7-68	15-7-69	Do.	BHC water dispersible powder concentrates.	IS: 562-1962 Specification for BHC water dispersible powder concentrates (<i>second revision</i>)
15	CM/L-1746 15-7-1968	16-7-68	15-7-69	Do.	Malathion Emulsifiable concentrates.	IS: 2567-1963 Specification for Malathion emulsifiable concentrates.
16	CM/L-1747 15-7-1968	16-7-68	15-7-69	M/s. Onalika Rolling Mills, Private Ltd., 13, Chanditala Lane, Tollygunge, Calcutta-40 having their office at 5 Mission Row, Calcutta-1.	Carbon steel billets, blooms and slabs for forgings, class 4.	IS: 1875-1966 Specification for carbon steel billets, blooms and slabs for forgings (<i>revised</i>).
17	CM/L-1748 18-7-1968	1-8-68	31-7-69	M/s. Singhal Pesticides, 9/122, Moti Bagh, Jamuna Par, Agra-6.	DDT dusting powders.	IS: 564-1961 Specification for DDT dusting powders.
18	CM/L-1749 18-7-1968	1-8-68	31-7-69	Do.	Aldrin emulsifiable concentrates	IS: 1397-1956 Specification for aldrin emulsifiable concentrates.
19	CM/L-1750 18-7-1968	1-8-68	31-7-69	M/s. Panjab Engg. & Foundry Corporation, G. T. Road, Suranussi, Jullundur.	Sand cast iron soil pipes 50 mm, 75 mm and 100 mm sizes only	IS: 1729-1964 Specification for sand cast iron spigot and socket soil, waste and ventilating pipes, fittings and accessories.
20	CM/L-1751 22-7-1968	1-8-68	31-7-69	M/s. National Electro Mechanical Co., Dhebarbhai Road, Bhaktinagar, Rajkot-2.	Single phase-AC motors of 0.37 kw (0.5 HP) rating with class A insulation.	IS: 996-1964 Specification for single phase small AC and universal electric motors (<i>revised</i>).
21	CM/L-1752 22-7-1968	22-7-68	15-7-69	M/s. Glace Kid (India) Pvt. Ltd. 22/2, Gorachand Road, Calcutta-14, having their Office at 75 Ganesh Chandra Avenue, Calcutta-13.	Miners' safety leather boots and shoes.	IS: 1989-1967 Specification for Miners' safety leather boots & shoes (<i>first revision</i>).

1	2	3	4	5	6	7
22	CM/L-1753 23-7-1968.	1-8-68	31-7-69	M/s. Ramchander Hseralali, 62, College Ghat Road, Shalimar (Howrah) having their office at 138, Canning Street, Calcutta-I.	Structural steal (standard quality)	IS: 226-1962 Specification for structural steel (standard quality) (<i>third revision</i>).
23	CM/L-1754 23-7-1968	1-8-68	31-7-69	Do.	Structural Steel (ordinary quality)	IS: 1977-1962 Specification for structural steel (ordinary quality).
24	CM/L-1755 23-7-1968	1-8-68	31-7-69	Do.	Rivet bars for structural purposes	IS: 1148-1964 Specification for Rivet bars for structural purposes (<i>revised</i>).
25	CM/L-1756 29-7-1968	1-8-68	31-7-69	M/s. Raja Mechanical Engineering Co., 194, Muneshwara Block, Palace Gattahalli, Bangalore-3, Mysore State.	Steel Windows of 6 HS 9 size.	IS: 1038-1957 Specification for steel doors, windows and ventilators.
26	CM/L-1757 29-7-1968	1-8-68	31-7-69	M/s. E.I.D. Parry Ltd., Ranipet, North Arcot Distt. having their office at Dare House, Post Box No. 12, Madras-I.	DDT emulsifiable concentrates.	IS: 633-1956 Specification for DDT emulsifiable concentrates.

[No. CMD/13:11.]

New Delhi, the 27th August 1968

S.O. 3151—In pursuance of the provisions of sub-rule (2) of Rule 3 of the Indian Standards Institution (Certification Marks), Rules, 1955, the Indian Standards Institution hereby notifies that the Indian Standards, particulars of which are given in the schedule here to annexed have been established during the quarter ending 30 June 1968:

THE SCHEDULE

Sl. No.	No. of Indian Standard	Title of Indian Standard
(1)	(2)	(3)
1	IS: 7-1967 . . .	Specification for moderate heat duty fireclay refractories, group B (<i>third revision</i>)
2	IS: 232-1967 . . .	Glossary of textile terms—natural fibres (<i>first revision</i>)
3	IS: 255-1967 . . .	Specification for sodium sulphate, anhydrous (<i>first revision</i>)
4	IS: 302-1967 . . .	General and safety requirements for light electrical appliances (<i>third revision</i>)
5	IS: 306-1968 . . .	Specification for tin bronze ingots and castings (<i>second revision</i>)
6	IS: 419-1967 . . .	Specification for putty, for use on window frames (<i>first revision</i>)
7	IS: 432 (Part I)-1966 . . .	Specification for mild steel and medium tensile steel bars and hard-drawn steel wire for concrete reinforcement Part I mild steel and medium tensile steel bars (<i>second revision</i>)
8	IS: 432 (Part II)-1966 . . .	Specification for mild steel and medium tensile steel bars and hard-drawn steel wire for concrete reinforcement Part II hard drawn steel wire (<i>second revision</i>)
9	IS: 455-1967 . . .	Specification for portland blastfurnace slag cement (<i>second revision</i>)
10	IS: 495-1967 . . .	Specification for graphite, flake, for lubricants (<i>first revision</i>)
11	IS: 524-1968 . . .	Specification for varnish, finishing, exterior, synthetic (<i>first revision</i>)
12	IS: 525-1968 . . .	Specification for varnish, finishing, exterior and general purposes (<i>first revision</i>)
13	IS: 555-1967 . . .	Specification for electric table type fans and regulators (<i>second revision</i>)
14	IS: 695-1967 . . .	Specification for acetic acid (<i>first revision</i>)
15	IS: 704-1968 . . .	Specification for crow-bars and claw-bars (<i>first revision</i>)
16	IS: 722 (Part VI)-1968 . . .	Specification for ac electricity meters Part VI var-hour meters
17	IS: 818-1968 . . .	Code of practice for safety and health requirements in electric and gas welding and cutting operations (<i>first revision</i>)
18	IS: 841-1968 . . .	Specification for hand hammers (<i>first revision</i>)
19	IS: 842-1968 . . .	Specification for smith's swages (<i>first revision</i>)
20	IS: 846-1968 . . .	Specification for smith's flatters (<i>first revision</i>)
21	IS: 847-1968 . . .	Specification for smith's fullers (<i>first revision</i>)
22	IS: 933-1967 . . .	Specification for portable chemical fire extinguisher foam type (<i>first revision</i>)
23	IS: 935-1967 . . .	Specification for portable chemical fire extinguisher, carbon tetrachloride type (<i>first revision</i>)
24	IS: 949-1967 . . .	Specification for emergency tender for fire brigade use and rescue tender for general purposes (<i>first revision</i>)

(1)	(2)	(3)
25	IS: 1009-1968	Specification for MAIDA (<i>first revision</i>)
26	IS: 1010-1968	Specification for <i>SUGI</i> or <i>RAWA</i> (semolina) (<i>first revision</i>)
27	IS: 1057-1968	Specification for commercial metric carat weights (<i>first revision</i>)
28	IS: 1076-1967	Preferred numbers (<i>first revision</i>)
29	IS: 1109-1968	Specification for borax (<i>first revision</i>)
30	IS: 1155-1968	Specification for wheat <i>atta</i> (<i>second revision</i>)
31	IS: 1165-1967	Specification for milk powder (whole and skim) (<i>first revision</i>)
32	IS: 1169-1967	Specification for electric pedestal type fans and regulators (<i>first revision</i>)
33	IS: 1305-1967	Specification for graphite for use as foundry facing material (<i>second revision</i>)
34	IS: 1314-1967	Specification for calcium chloride (<i>first revision</i>)
35	IS: 1364-1967	Specification for precision and semi-precision hexagon bolts, screws, nuts and lock nuts (diameter range 6 to 39 mm) (<i>first revision</i>)
36	IS: 1367-1967	Technical supply conditions for threaded fasteners (<i>first revision</i>)
37	IS: 1385-1968	Specification for phosphor bronze rods and bars, sheet and strip, and wire (<i>first revision</i>)
38	IS: 1392-1967	Specification for glass milk bottles (<i>first revision</i>)
39	IS: 1408-1968	Recommended procedure for inspection of copper base alloy sand castings (<i>first revision</i>)
40	IS: 1448-	Indian standard methods of test for petroleum products (p: 31-1968)
41	IS: 1459-1968	Specification for kerosines (<i>first revision</i>)
42	IS: 1463-1967	Specification for kaolin for cosmetic industry (<i>first revision</i>)
43	IS: 1524-1968	Specification for refractory sleeves (<i>first revision</i>)
44	IS: 1525-1968	Specification for ladle refractories for steel plants (<i>first revision</i>)
45	IS: 1540 (Part I)-1967	Specification for quick lime and hydrated lime for chemical industries Part I quick lime (<i>first revision</i>)
46	IS: 1550-1967	Specification for copper sheet and strip for utensils and for general purposes (<i>first revision</i>)
47	IS: 1555-1967	Specification for pitchbound wire reeds for use in cotton looms (<i>first revision</i>)
48	IS: 1664-1968	Specification for mineral mixtures for supplementing cattle feeds (<i>first revision</i>)
49	IS: 1727-1967	Methods of test for pozzolanic materials (<i>first revision</i>)
50	IS: 1885 (Part XXV)-1967	Electrotechnical vocabulary Part XXV radiolocation and radionavigation
51	IS: 1822-1967	Specification for ac motor starters of voltage not exceeding 1000 volts (<i>first revision</i>)
52	IS: 1823-1968	Specification for floor door stoppers (<i>first revision</i>)
53	Index to IS: 1870-1965	Comparison of Indian and overseas standards for wrought steels for general engineering purposes
54	IS: 1885 (Part X)-1968	Electrotechnical vocabulary Part X Electrical power system protection
55	IS: 1885 (Part XIII/Sec 1)-1968	Electrotechnical vocabulary Part XIII Telecommunication Transmission lines and waveguides Section I General transmission lines
56	IS: 1961-1968	Specification for glass tableware (<i>first revision</i>)
57	IS: 1997-1967	Specification for burettes (<i>first revision</i>)
58	IS: 2027-1967	Widths across flats for spanners (<i>first revision</i>)
59	IS: 2117-1967	Guide for manufacture of hand-made common burnt clay building bricks (<i>first revision</i>)
60	IS: 2185-1967	Specification for hollow cement concrete blocks (<i>first revision</i>)

(1)	(2)	(3)
61. IS: 2299-1968	Specification for steel helmets for civil defence (<i>first revision</i>)
62. IS: 2390-1967	Methods for chemical analysis of foundry nickel
63. IS: 2556 (Part I)-1967	Specification for vitreous sanitary appliances vitreous china Part I general requirements (<i>first revision</i>)
64. IS: 2556 (Part II)-1967	Specification for vitreous sanitary appliances vitreous china Part II specific requirements of wash down water-closets (<i>first revision</i>)
65. IS: 2556 (Part III)-1967	Specification for vitreous sanitary appliances (vitreous china) Part III specific requirements of squatting pans and traps (<i>first revision</i>)
66. IS: 2556 (Part IV)-1967	Specification vitreous sanitary appliances (vitreous china) Part IV specific requirements of wash basins (<i>first revision</i>)
67. IS: 2556 (Part V)-1967	Specification for vitreous sanitary appliances (vitreous china) Part V specific requirements of laboratory sinks (<i>first revision</i>)
68. IS: 2556 (Part VI)-1967	Specification for vitreous sanitary appliances (vitreous china) Part VI specific requirements of urinals (<i>first revision</i>)
69. IS: 2556 (Part VII)-1967	Specification for vitreous sanitary appliances (vitreous china) Part VII specific requirements of half-round channel (<i>first revision</i>)
70. IS: 2556 (Part VIII)-1967	Specification for vitreous sanitary appliances (vitreous china) Part VIII specific requirements of siphonic wash-down water closets (<i>first revision</i>)
71. IS: 2556 (Part IX)-1967	Specification for vitreous sanitary appliances (vitreous china) Part IX specific requirements of bidets (<i>first revision</i>)
72. IS: 2556 (Part X)-1967	Specification for vitreous sanitary appliances (vitreous china) Part X specific requirements of foot rests (<i>first revision</i>)
73. IS: 2766 (Part I)-1968	Methods of chemical analysis of primary nickel Part I
74. IS: 2801-1967	Accuracy requirements for bulk meters used in petroleum trade
75. IS: 3073-1967	Assessment of surface roughness
76. IS: 3347 (Part IV/Sec 2)-1967	Dimensions for porcelain transformer bushings Part IV 24 KV bushings Section 2 metal parts
77. IS: 3347 (Part V/Sec 2)-1967	Dimensions for porcelain transformer bushings Part V 36 KV bushings Sections 2 Metal parts
78. IS: 3323 (Part II)-1967	Specification for wirewound resistors, type II Part II vitreous enamelled
79. IS: 3400 (Part VI)-1967	Methods of test for vulcanized rubbers Part VI Resistance to liquids
80. IS: 3400 (Part VII)-1967	Methods of test for vulcanized rubber Part VII Resistance to flex-cracking
81. IS: 3435-1968	Specification for 99 percent secondary aluminium notched bars and ingots for remelting for aircraft purposes
82. IS: 3596-1967	Glossary of terms relating to hosiery
83. IS: 3700 (Part II)-1967	Essential ratings and characteristics of semiconductor devices Part II low power signal diodes
84. IS: 3700 (Part III)-1967	Essential rating and characteristics of semiconductor devices Part III Rectifier diodes
85. IS: 3754-1967	Method for calibration of standardized blocks to be used for Rockwell B and C scale hardness testing machines

(1)	(2)	(3)
86.	IS: 4033-1968 . . .	General requirements for hospital furniture
87.	IS: 4076-1967 . . .	Specification for hard brass wires for springs and other special purposes
88.	IS: 4097-1967 . . .	Specification for gravel for use as pack in tubewells
89.	IS: 4099-1967 . . .	Specification for nibs for penholders for general writing purposes
90.	IS: 4118-1967 . . .	Specification for penholders
91.	IS: 4137-1967 . . .	Code of practice for heavy duty electric overhead travelling cranes including special service machines for use in steel works
92.	IS: 4180-1967 . . .	Code of practice for corrosion protection of light gauge steel sections used in building
93.	IS: 4183-1967 . . .	Specification for metal hand rammers
94.	IS: 4191-1967 . . .	Specification for leather for volleyball
95.	IS: 4207-1967 . . .	Specification for leather for football
96.	IS: 4246-1967 . . .	Specification for domestic gas stoves for use with liquefied petroleum gases
97.	IS: 4249-1967 . . .	Classification and methods of tests for non-ignitable and self-extinguishing properties of solid electrical insulating materials
98.	IS: 4318-1967 . . .	Specification for solid core porcelain insulators for overhead traction lines
99.	IS: 4327-1967 . . .	Specification for electric fans and regulators for use in ships
100.	IS: 4353-1967 . . .	Recommendations for submerged arc welding of mild steel and low alloy steels
101.	IS: 4365-1967 . . .	Code of practice for application of bitumen mastic for waterproofing of roofs
102.	IS: 4367-1967 . . .	Specification for alloy and tool steel forgings for general industrial use
103.	IS: 4380-1967 . . .	Specification for Abney level
104.	IS: 4387-1967 . . .	Specification for asymmetric bars
105.	IS: 4392-1967 . . .	Specification for hand-made <i>namdhas</i>
106.	IS: 4393-1967 . . .	Basic requirements for an abattoir
107.	IS: 4394-1967 . . .	Method for evaluating strength of homoe geneous vat dyestuffs
108.	IS: 4397-1967 . . .	Specification for cold-rolled carbon steel strips for ball and roller bearing cages
109.	IS: 4398-1967 . . .	Specification for carbon-chromium steel for the manufacture of balls, rollers and bearing races
110.	IS: 4400 (Part II)-1967 . . .	Methods of measurements on semiconductor devices Part II Low power signal diodes
111.	IS: 4403-1967 . . .	Specification for <i>AYOWAN</i>
112.	IS: 4406-1967 . . .	General requirements for hearing aids
113.	IS: 4409-1967 . . .	Specification for ferronickel
114.	IS: 4410 (Part I)-1967 . . .	Glossary of terms relating to river valley projects Part I Irrigation practice
115.	IS: 4410 (Part II)-1967 . . .	Glossary of terms relating to river valley projects Part II Project planning
116.	IS: 4410 (Part III)-1967 . . .	Glossary of terms relating to river valley projects Part III River and river training
117.	IS: 4411-1967 . . .	Code for designation of semiconductor devices
118.	IS: 4417-1967 . . .	Specification for weft prints for shuttles for pirn-changing automatic cotton looms
119.	IS: 4418-1967 . . .	Guide for caselabelling of textiles for laundering and dry-cleaning
120.	IS: 4419-1967 . . .	Method for determination of dimensional stability of knitted fabrics made of synthetic fibres
121.	IS: 4420-1967 . . .	Method for determination of conductivity of aqueous and organic extracts of textile materials
122.	IS: 4422-1967 . . .	Specification for willow clefts for cricket bats
123.	IS: 4423-1967 . . .	Guide for hand-sawing of timber
124.	IS: 4424-1967 . . .	Specification for use of timber in coal mines

(1)	(2)	(3)
125.	IS: 4425-1967	Specification for p-Nitrotoluene o-sulphonic acid
126.	IS: 4427-1967	Grading for groundnut kernels for oil milling and for table use
127.	IS: 4428-1967	Grading for mustard seeds for oil milling
128.	IS: 4429-1967	Grading for sesame seeds for oil milling
129.	IS: 4430-1967	Specification for mould steels
130.	IS: 4431-1967	Specification for carbon and carbon-manganese free cutting steels
131.	IS: 4432-1967	Specification for case hardening steels
132.	IS: 4433-1967	Method for the determination of the hardgrove grindability index of coal
133.	IS: 4435-1967	Specification for wooden ladders and trestles
134.	IS: 4437-1967	Specification for nylon breaking cords for personnel parachutes
135.	IS: 4438-1967	Specification for perforated steel strips (fillets) for take-up rollers
136.	IS: 4439-1967	Specification for rayon velvet
137.	IS: 4440-1967	Specification for slip gauge accessories
138.	IS: 4441-1967	Code of practice for use of silicate type chemical resistant mortars
139.	IS: 4442-1967	Code of practice for use of sulphur type chemical resistant mortars
140.	IS: 4443-1967	Code of practice for use of resin type chemical resistant mortars
141.	IS: 4446-1967	Specification for chlorophyll
142.	IS: 4447-1967	Specification for sodium benzoates, food grade
143.	IS: 4448-1967	Specification for benzoic acid, food grade
144.	IS: 4449-1967	Specification for whiskies
145.	IS: 4451-1967	Specification for toxaphene, technical
146.	IS: 4453-1967	Code of practice for exploration by pits, trenches, drifts and shafts
147.	IS: 4454-1967	Specification for steel wires for cold formed springs
148.	IS: 4456 (Part I)-1967	Methods of test for chemical resistant mortars Part I silicate type and resin type
149.	IS: 4457-1967	Specification for ceramic unglazed vitreous acid-resistance tiles
150.	IS: 4459-1967	Method for determination of strength of direct dyestuffs by dyeing test
151.	IS: 4460-1967	Method for rating of machine cut spur and helical gears
152.	IS: 4462-1967	Specification for contact wire healds for jute weaving
153.	IS: 4463-1967	Specification for hooka tobacco, manufactured
154.	IS: 4464-1967	Code of practice for presentation of drilling information and core description in foundation investigation
155.	IS: 4465-1967	Specification for metal heald frames for flat steel healds
156.	IS: 4466 (Part I)-1967	Recommendations for farm cattle housing for plain areas with medium rainfall Part I Cattle shed for an average farmer
157.	IS: 4466 (Part II)-1967	Recommendations for farm cattle housing for plain areas with medium rainfall Part II cattle shed for a rural milk producer
158.	IS: 4467-1967	Specification for caramel
159.	IS: 4469-1967	Code of practice for construction of flue-curing tobacco barns
160.	IS: 4470-1967	Specification for all-metal leasing reeds for warping
161.	IS: 4471-1967	Method for determination of strength of naphthols (azoic coupling components) (gravimetric and volumetric methods)
162.	IS: 4472 (Part I)-1967	Methods for identification of the application classes of dyes on textile materials Part I Cotton and other cellulosic fibres

(1)	(2)	(3)
163.	IS: 4473-1967	Specification for gas ovens for use with liquefied petroleum gases, domestic
164.	IS: 4474-1967	Glossary of terms relating to drafting in spinning machinery
165.	IS: 4475-1967	Specification for crane-suspended hand-operated geared ladles for iron foundries
166.	IS: 4476-1967	Specification for crane-suspended hand-operated geared ladles for steel foundries
167.	IS: 4477 (Part I)-1967	Methods of measurement of fluid flow by means of venturi meters Part I liquids
168.	IS: 4478-1968	Glossary of terms for ship's derricks
169.	IS: 4479-1967	Methods of measurements on magnetic tapes for sound recording and reproduction
170.	IS: 4480-1967	Specification for magnetic tapes for sound recording and reproduction
171.	IS: 4481-1968	Specification for duckbill pliers
172.	IS: 4482-1967	Specification for hearing aids
173.	IS: 4483 (Part I)-1968	Preferred panel cut-out dimensions for electrical relays Part I flush mounting IDMTL relays
174.	IS: 4484-1967	Specification for electrically welded stud link anchor chains and attachments
175.	IS: 4485-1968	Specification for track spanners for railways
176.	IS: 4486-1967	Recommended methods for the determination of the permittivity and dielectric dissipation factor of electrical insulating materials at power, audio and radio frequencies including metre wavelengths
177.	IS: 4487-1968	Specification for forceps, tonsil artery (Birkett's pattern)
178.	IS: 4488-1968	Specification for forceps, tonsil holding (Muck's and White's pattern)
179.	IS: 4489-1968	Specification for forceps, nasal tubinate, Luc's
180.	IS: 4490-1968	Specification for forceps, dilating, Troussau's
181.	IS: 4493 (Part I)-1968	Specification for hollow metallic waveguides Part I general requirements & tests
182.	IS: 4494-1968	Specification for tables, overbed
183.	IS: 4495-1968	Method of measurement of light output of cinematograph projectors (for narrow gauge film)
184.	IS: 4496-1968	Screen luminance for the projection of 16 mm film by incandescent lamps
185.	IS: 4497-1968	Specification for 16-mm portable sound-and-picture cinematograph projectors
186.	IS: 4498-1968	Specification for nibs for fountain pens
187.	IS: 4499-1968	Dimensions for depth of holes for studs
188.	IS: 4500-1967	Specification for pipe wrenches, foot print type
189.	IS: 4501-1967	Specification for aprons, rubberized, acid and alkali-resistant
190.	IS: 4502-1968	Specification for machine vices
191.	IS: 4504-1968	Specification for forceps, peritonissilar
192.	IS: 4505-1968	Specification for sodium formaldehyde sulfoxylate
193.	IS: 4506-1968	Specification for ballast forks
194.	IS: 4507-1968	Specification for yacht ropes
195	IS: 4508-1968	Specification for shortened single ended open jaw spanners
195(a)	IS: 4509-1968	Specification for shortened single ended ring spanners
195(b)	IS: 4510-1968	Specification for horizontal cylindrical high speed steam sterilizers, pressure type
196.	IS: 4514-1968	Specification for forceps, tonsil dissecting (waugh's pattern)
197.	IS: 4516-1968	Specification for elliptical mild steel tubes
198.	IS: 4517-1967	Specification for brush, welder's
199.	IS: 4518 (Part I)-1967	Methods of tests for styrene-butadiene rubber (sbr) Part I Determination of volatile matter, total ash, organic acid, soap, antioxidants, bound styrene and mooney viscosity

(1)	(2)	(3)
200.	IS: 4519-1968	Specification for copper for commutator bars
201.	IS: 4520-1968	Specification for forceps, punch, nasal (citelli's antrum and hajek's sphenoidal)
202.	IS: 4523-1968	Specification for acetoacetanilide
203.	IS: 4524-1968	Specification for acetoaceto-chloroanilide
204.	IS: 4525-1968	Specification for p-aminoacetanilide
205.	IS: 4527-1968	Specification for 2-nitro-4-chlorotoluene
206.	IS: 4528-1968	Specification for 4, 4'-dinitrostilbene-2, 2'-disulphonic acid (sodium salt)
207.	IS: 4530-1968	General requirement for positioning and routing of engine exhaust pipes in motor vehicles
208.	IS: 4531-1968	Specification for swivels
209.	IS: 4532-1968	Specification for portable scale for jewellers
210.	IS: 4533-1968	Specification for suction apparatus
211.	IS: 4534-1968	Specification for adapter for terminal devices, artificial limbs
212.	IS: 4535-1968	Specification for saw-grip terminal device for artificial limbs
213.	IS: 4536 (Part I)-1968	Specification for composite bottom stainless steel cooking utensils Part I copper electrodeposited
214.	IS: 4539-1968	Performance requirements for auto-rickshaw meters, distance-cum-time
215.	IS: 4541-1968	Glossary of tea terms
216.	IS: 4542-1968	Colorimetric methods for determination of iron
217.	IS: 4543-1967	Specification for marquenching oils
218.	IS: 4544-1968	Code of safety for ammonia
219.	IS: 4546-1968	Methods of measurement of radiations from television receivers
220.	IS: 4547-1968	Performance requirements of receivers for monochrome television broadcast transmissions
221.	IS: 4548 (Part I)-1967	Methods of chemical analysis of copper-gold brazing alloys Part I Analysis of gold and copper
222.	IS: 4549-1968	Specification for life boat compass, liquid type
223.	IS: 4550-1968	Recommendation for positioning of magnetic compasses in ships
224.	IS: 4551-1968	Specification for lifeboat crutches
225.	IS: 4552-1968	Specification for portable jacks for automobiles, mechanical and hydraulic
226.	IS: 4553-1967	Specification for leather for cricket ball
227.	IS: 4554-1968	Specification for hammers terminal devices, ball pein and claw, for artificial limbs
228.	IS: 4555-1968	Specification for biprong terminal device, draughtsman, for artificial limbs
229.	IS: 4556-1968	Specification for typing finger terminal device for artificial limbs
230.	IS: 4557-1968	Specification for appliance, office, flat adjustable, for artificial limbs
231.	IS: 4558-1968	Code of practice for under-drainage of lined canals,
232.	IS: 4561 (Part I)-1968	Specification for oil cans Part I light duty oil cans
233.	IS: 4562-1968	Specification for portable chemical fire extinguisher, foam type for marine use
234.	IS: 4564-1968	Specification for fireclay nozzles
235.	IS: 4565-1968	Specification for fireclay stoppers
236.	IS: 4568-1968	Specification for lifeboat oars (wood)
237.	IS: 4569-1968	Specification for scissors, eye
238.	IS: 4572-1968	Specification for polyamide (nylon) filament ropes (hawser-laid)
239.	IS: 4575-1968	Code for handling of fibre ropes
240.	IS: 4576-1968	Specification for liquefied petroleum gases
241.	IS: 4577-1968	Specification for spade-grip terminal device for artificial limbs

(1)	(2)	(3)
242. IS: 4578-1968	.	Specification for lubricating oils for refrigeration machinery
243. IS: 4582-1968	.	Specification for ladies' cardigans
244. IS: 4586-1968	.	Dimensions of spindles and details of mechanical fixing devices used in electronic equipment
245. IS: 4588-1968	.	Specification for raw natural rubber
246. IS: 4590-1968	.	Specification for engineers' level
247. IS: 4592-1968	.	Test chart for gap-frame presses
248. IS: 4593-1968	.	Test chart for straight-sided presses

[No. CMD/13:3.]

S.O. 3152.—In pursuance of sub-regulations (2) and (3) of regulation 3 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that the Indian Standard(s), particulars of which are given in the Schedule hereto-annexed, have been established during the period 16 July to 15 August 1968:

THE SCHEDULE

Sl. No.	No. and Title of the Indian Standard Established	No. and Title of the Indian Standard or Standards, if any, superseded by the new Indian Standard	Brief Particulars
(1)	(2)	(3)	(4)
1	IS: 262-1967 Specification for ferrous sulphate, heptahydrate (<i>first revision</i>)	IS: 262-1950 specification for iron sulphate, technical	This standard prescribes the requirements and the methods of sampling and test for ferrous sulphate, heptahydrate. (Price Rs. 5.50)
2	IS: 362-1968 Specification for parliament hinges (<i>second revision</i>)	IS: 362-1962 Specification for parliament hinges (<i>revised</i>)	This standard lays down the requirements regarding materials, manufacture, finish, marking and packing of parliament hinges. (Price Rs. 3.50)
3	IS: 835-1957 Common names for pesticides (<i>first revision</i>)	IS: 835-1956 Specification for common names for pesticides	This standard comprises a list of common names for pesticides, together with their chemical, names and structural formulae. (Price Rs. 8.00).
4	IS: 1102-1953 Specification for handloom buckram cloth (<i>first revision</i>)	IS: 1102-1957 Specification for handloom buckram cloth	This standard prescribes the constructional details and other particulars of four varieties of handloom buckram cloth (Price Rs. 2.50).
5	IS: 1285-1953 Specification for wrought aluminium and aluminium alloys, extruded round tube and hollow sections (for general engineering purposes) (<i>first revision</i>)	IS: 1285-1953 Specification for wrought aluminium and aluminium alloys, extruded round tube and hollow section (for general engineering purposes)	This standard covers the requirements of extruded round tube and hollow section made from three grades of wrought aluminium and eleven grades of wrought aluminium alloys in various conditions. (Price Rs. 8.00).

(1)	(2)	(3)	(4)
6.	IS: 1337-1963 Specification for hard chromium electroplated coatings on iron and steel (<i>first revision</i>)	IS: 1337-1959 Specification for hard chromium plating on steel.	This standard applies to electroplated coatings of chromium deposited directly on to 'plain-carbon and low-alloy steels and cast iron (with or without grinding of chromium deposits) for engineering and industrial purposes which may or may not have been nickel plated. (Price Rs. 2.00).
7.	IS: 1443-1963 Indian Standard methods of test for petroleum products (P:4)-1968	IS: 1448 (Part I)-1960 Method of test (No. P:4) for petroleum and its products.	First revision of method No. P:4 has been issued in loose-leaf form binder. In this connection also see note against serial No. 6 of the schedule published under S.O. 4080 dated 31 October 1967 in the gazette of India, Part II, Section 3(ii) dated 18 November 1967. Four methods are prescribed in this revision for the determination of ash, sulphated ash and water soluble ash of petroleum products and greases (Price Rs. 2.0).
8.	IS: 1572-1963 Specification for electroplated coatings of cadmium on iron and steel (<i>first revision</i>)	IS: 1572-1960 Specification for cadmium plating.	This standard applies to electroplated coatings of cadmium on iron and steel, except for the following: (a) coatings applied to threaded components; and (b) coatings applied to sheet, strip, or wire in the unfabricated form, or coil springs. (Price Rs. 3.50).
9.	IS: 1582-1963 Method for determination of scouring loss in silk textile materials	..	This standard prescribes a method for determining the scouring loss in silk textile materials. (Price Rs. 2.00).
10.	IS: 1835 (Part XVI/Sec 2)-1968 Electrotechnical vocabulary Part XVI Lighting Section 2 General illumination, lighting fitting and lighting for traffic and signalling.	..	This standard covers definitions of the terms used in the field of lighting relating to the general illumination, lighting fittings and their components, and specialized lighting for traffic and signalling. (Price Rs. 8.00).
11.	IS: 1942-1963 Specification for bone-meal as live stock feed supplement (<i>first revision</i>)	IS: 1942-1961 Specification for bone-meal as livestock feed	This standard prescribes the requirements and the methods of sampling and test for bone-meal to be used as a mineral supplement in livestock feeds (Price Rs. 6.00).
12.	IS: 3347 (Part III/Sec. 2)-1967 Dimensions for porcelain transformer bushings Part III 12 AND 17.5 kV Bushings Section 2 Metal parts.	..	This standard lays down the dimensions and materials of metal parts and accessories of bushings of 12 and 17.5 kV used with power transformers. (Price Rs. 8.00).

(1)	(2)	(3)	(4)
13.	IS: 3708 (Part II)-1968 Methods of test for natural rubber latex, part II	..	This standard prescribes the methods of test for determining boric acid (NRL:17) and magnesium (NRL:18) in natural rubber latex of industrial importance <i>Hevea brasiliensis</i> . (Price Rs. 2.50).
14.	IS: 4041-1967 Glossary of terms relating to refractory materials.	..	This standard covers the definitions of the terms commonly used in different production units of refractories industry (Price Rs. 14.50).
15.	IS: 4331-1967 Comparison of Indian and overseas standards for steel castings.	..	This standard compares steel castings covered by the Indian Standards with British, German, American, Japanese, Russian, Italian and French standards for steel castings (Price Rs. 10.00).
16.	IS: 4332 (Part IV)-1968 Methods of test for stabilized soils Part IV Wetting and drying and freezing and thawing tests for compacted soil-cement mixtures.	..	This standard covers the procedure for determining the soil-cement losses moisture changes and volume changes (swell and shrinkage) produced by repeated wetting drying, freezing and thawing of hardened soil-cement specimens. (Price Rs. 3.50).
17.	IS: 4434-1967 Code of practice for <i>in-situ</i> vane shear test for soils	..	This standard covers the procedure of conducting <i>in-situ</i> vane shear test in saturated cohesive deposits for determining their in-place shearing resistance. Two methods of the test, namely, testing from bottom of a borehole and by direct penetration from ground surface are covered (Price Rs. 5.00).
18.	IS: 4461-1967 Code of practice for joints in surface hydel power stations	..	This standard covers the location, design, construction and water-proofing arrangements of all types of joints to be provided in surface hydel power stations. (Price Rs. 7.00).
19.	IS: 4492-1968 Specification for welded V-blocks (Diameter range 300 to 2000 mm)	..	This standard specifies the sizes and other requirements of welded type V-blocks of large sizes used in the heavy engineering field. (Price Rs. 4.00).
20.	IS: 4521-1968 Specification for wire ropes used in oil wells and oil well drilling	..	This standard covers wire ropes, wire strands and wires for use in oil wells and oil well drilling. (Price Rs. 6.00).

(1)	(2)	(3)	(4)
21.	IS: 4529-1968 Specification for glass tubes for medical thermometers	..	This standard prescribes the requirements and the methods of sampling and test for glass tubes used in the manufacture of glass type medical thermometers, including veterinary thermometers. (Price Rs. 3.50).
22.	IS: 4537-1968 Test chart for capstan and turret lathes	..	This standard prescribes limits of accuracy and procedures for carrying out the tests for capstan and turret lathes. (Price Rs. 4.00).
23.	IS: 4559-1968 Specification for single operator rectifier type dc arc welder	..	This standard lays down the requirements and tests for rectifier type single operator arc welding power sources incorporating solid state rectifiers and having drooping characteristics. (Price Rs. 5.50)
24.	IS: 4561-(Part III)-1968 Specification for oil cans Part III Feeding oil cans	..	This standard specifies the requirements for feeding oil cans for general purposes. (Price Rs. 2.00).
25.	IS: 4566-1968 Specification for Methylene chloride (dichloromethane), technical	..	This standard prescribes the requirements and the methods of sampling and test for methylene chloride (dichloromethane), technical, suitable for industrial purposes. (Price Rs. 5.50).
26.	IS: 4571-1968 Specification for Aluminium extension ladders for fire brigade use	..	This standard lays down the requirements regarding material, design, construction, workmanship and finish, and acceptance tests of aluminium extension ladders for fire fighting purposes. (Price Rs. 2.50).
27.	IS: 4574-1968 Specification for flourspar for use in metallurgical industries.	..	This standard covers the requirements for three grades of flourspar for use in metallurgical industries NOTE—Grade I flourspar is used in aluminium industry, while grades 2 and 3 are used in steel industries. (Price Rs. 1.50).
28.	IS: 4581-1967 Specification for phosphorus trichloride, pure and analytical reagent.	..	This standard prescribes the requirements and the methods of sampling and test for phosphorus trichloride, pure and analytical reagent. (Price Rs. 5.00).

(1)	(2)	(3)	(4)
29.	IS: 4587-1968 Specification for raspatories, cleft palate for plastic surgery.	..	This standard covers the requirements for material shape dimensions, workmanship finish and tests in respect of cleft palate raspatories curved-right curved-left straight (two patterns each) and Mcindoe's double ended. (Price Rs. 4.00).
30.	IS: 4591-1968 Code of practice for installation and maintenance of escalators	..	This code applies to the design installation and maintenance of escalators in buildings. (Price Rs. 5.00).
31.	IS: 4596-1968 Glossary of terms relating to oil expellers.	..	This standard gives the definitions of terms used in oil expeller trade. (Price Rs 3.50).
32.	IS: 4599-1968 Method for drift expanding test on aluminium and aluminium alloy tubes	..	This standard prescribes the method for conducting the drift expanding test on aluminium and aluminium alloy tubes of circular cross-section having an external diameter not greater than 100 mm and a wall thickness not greater than 10 mm. (Price Rs. 2.00).
33.	IS: 4600-1968 Specification for flexible shafts	..	This standard covers the requirements and principal dimensions of flexible shafts for industrial purposes. (Price Rs. 2.50).
34.	IS: 4601 (Part II)-1968 Navigation lights for large sea-going power-driven vessels Part II Oil lanterns	..	This standard gives the specification for oil lanterns used as navigation lights for masthead stern and side lights by large sea-going power-driven vessels (Price Rs. 3.50).
35.	IS: 4605-1968 Specification for crepe bandage.	..	This standard covers requirements pertaining to material construction and performance of crepe bandage (Price Rs. 2.50).
36.	IS: 4608-1968 Specification for brush-holding device for artificial limbs.	..	This standard specifies the requirements pertaining to material shape dimensions, workmanship and finish of brush-holding terminal device. (Price Rs. 2.00).
37.	IS: 4614-1968 Specification for hurdles	..	This standard lays down material dimensional and manufacturing requirements of hurdles for men's and women's events. (Price Rs. 2.50).

(1)	(2)	(3)	(4)
38	IS: 4617-1968 Grading for linseed for oil milling	..	This standard prescribes the methods of grading and the requirements for linseed for oil milling along with the relevant methods of sampling and test. (Price Rs. 2.00).
39	IS: 4619-1968 Grading for <i>MAHUA</i> kernels for oil milling	..	This standard prescribes the methods of grading and the requirements for <i>MAHUA</i> kernels for oil milling along with the relevant methods of sampling and test. (Price Rs. 2.00).
40	IS: 4620-1968 Grading for cottonseeds for oil milling	..	This standard prescribes the methods of grading and the requirements for cottonseeds for oil milling along with the relevant methods of sampling and test. (Price Rs. 2.00).
41	IS: 4624-1968 Specification for dehydrated peas	..	This standard prescribes the requirements and the methods of sampling and test for dehydrated peas. (Price Rs. 4.00).
42	IS: 4625-1968 Specification for dehydrated carrots	..	This standard prescribes the requirements and the methods of sampling and test for dehydrated carrots. (Price Rs. 4.00).
43	IS: 4626-1968 Specification for dehydrated potatoes	..	This standard prescribes the requirements and the methods of sampling and test for dehydrated potatoes. (Price Rs. 4.00).
44	IS: 4627-1968 Specification for dehydrated cabbage	..	This standard prescribes the requirements and methods of sampling and test for dehydrated cabbage. (Price Rs. 4.00).
45	IS: 4628-1968 Specification for dehydrated okra (<i>Bhindi</i>)	..	This standard prescribes the requirements and the methods of sampling and tests for dehydrated okra (<i>Bhindi</i>). (Price Rs. 4.00).
46	IS: 4629-1968 Specification for blankets plain or check wool khadi	..	This standard prescribes the requirements of five popular varieties of blankets plain or check, wool khadi. (Price Rs. 2.50).
47	IS: 4635 (Part I)-1968 Method for determination of colour fastness of textile materials to vulcanizin Part I with hot air	..	This standard prescribes a method for determining the resistance of colour of textiles of all kinds and in all forms to the action of a typical rubber compound such as may be used in the proofs

(1)	(2)	(3)	(4)
			industry and its decomposition produced during vulcanization in hot air. (Price Rs. 2.00).
48	IS: 4638-1967 Specification for seamless rectangular fish tins	..	This standard prescribes the requirements and the methods of sampling and test for two-piece rectangular tins manufactured from tinplate used for the packing of fish. (Price Rs. 2.00).
49	IS: 4650-1968 Specification for wooden anvil blocks	..	This standard covers the requirements for wooden anvil blocks for use with cast steel blacksmith's anvils without spikes conforming to Fig. 3 and Table 1 of IS: 510-1964. (Price Rs. 3.50).

Copies of these Indian Standards are available for sale with the Indian Standards Institution Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-1 and also its branch offices at (i) Bombay Mutual Terrace, Sandhurst Bridge, Bombay-7, (ii) Third and Fourth Floors, 5 Chowringhee Approach, Calcutta 13, (iii) Second Floor, Sathyamurthi Bhavan, 54, General Patters Road, Madras-2 and (iv) 117/418 B, Sarvodaya Nagar, Kanpur.

[No. CMD/13:2.]

S.O.3153.—In pursuance of sub-regulation (4) of regulation 14 of the Indian Standards Institution (Certification Marks) Regulations 1955, as amended from time to time, the Indian Standards Institution hereby notifies that the licence No. CM/L-1311 particulars of which are given below, has been cancelled with effect from 1 August 1968:

Licence No. and Date	Name & Address of the Licensee	Article/Process covered by the licence cancelled	Relevant Indian Standard
CM/L-1311 29-7-1966	The East Asiatic Co (India) Private Ltd., Oil & Soap Industries, 18 Elaiya Mudali Street, Tondiarpet, Madras-21 having their Office at 16 First Line Beach, Madras-1.	Poultry feeds (Growing and Laying)	IS:1374-1964 Specification for Poultry Feeds.

[No. CMD/55:1311.]

A. K. GUPTA,
Deputy Director General.

DELHI GAZETTE, DELHI ADMINISTRATION: SEPT. 12, 1968/BHADRA 21, 1890

(Department of Labour and Employment)

New Delhi, the 5th August, 1968.

S.O. 3154.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the industrial dispute between the employer in relation to the (1) M/s. Lima Leitao & Co., Marmugao Harbour. (2) M/s. Elesbao Pereira & Sons. Vasco-da-Gama. (3) M/s. V. S. Dempo & Co. Pvt. Ltd., Marmugao Harbour. (4) M/s. V. M. Salgaocar & Bro., Pvt. Ltd., Vasco-da-Gama. (5) M/s. Chowgule & Bros. Marmugao Harbour. (6) M/s. Mormugao N. Ltd., Vasco-da-Gama. (7) M/s. Shantilal K. & Bros., Vasco-da-Gama. (8) M/s. Agencia U. Ltd., Vasco-da-Gama. (9) M/s. Damodar Mangalji & Co., Vasco-da-Gama. (10) M/s. Agencia Commercial Maritima, Vasco-da-Gama. (11) M/s. Froilano C. R. Machado, Stevedore, Marmugao Harbour, Vasco-da-Gama. (12) M/s. The President, Marmugao Stevedores' Association, Vasco-da-Gama. (13) M/s. The Chairman, Dock Labour Board, Marmugao and their workmen, which was received by the Central Government on the 2nd August, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY

REFERENCE No. CGIT-78 OF 1965.

PARTIES:

Employers in relation to the Marmagoa Stevedores Association, Vasco-da-Gama.

AND

their workmen.

REFERENCE No. CGIT-4 OF 1968

PARTIES:

Employers in relation to Lima Leitao and Co., Marmugao Harbour and 12 others.

AND

their workmen.

PRESENT:

Shri A. T. Zambre, Presiding Officer.

APPEARANCES:

For the employers.—Shri Ramesh Desai, Labour Adviser. Shri G. G. Velhal, Labour Officer Dock Labour Board, Shri Lima Leitao.

For the workmen.—Shri Mohan Nair, General Secretary Goa Dock Labour Union. Shri Gerald Pereira, General Secretary, Marmagoa Port Dock and Transport Workers Union, Shri G. Bhadkamkar, General Secretary, Transport and Dock Workers Union.

STATE: Union Territory, Goa

INDUSTRY: Ports and Docks.

Bombay, dated 27th July, 1968

AWARD

By Order No. 28/63/65/LRIV, dated 18th December, 1965, the Government of India. Ministry of Labour and Employment have referred to this tribunal an industrial dispute existing between the employers in relation to Marmagoa Stevedores Association, Vasco-da-Gama and their workmen in respect of the matters specified in the following schedule:—

SCHEDULE

"1. Whether the gangmen employed by Marmagoa Stevedores Association are entitled to payment of bonus for the year ending 31st December, 1963?

2. If so what should be the rate of Bonus?"

2. The Transport and Dock Workers' Union, Goa, Vasco-da-Gama, has raised this dispute on behalf of the gangmen working in the Marmagoa Port demanding bonus for the year 1963. Shri Ramesh Desai, the General Secretary of the Hind Mazdoor Sabha, Goa, has filed the statement of claim of the workmen on behalf of the Transport and

Dock Workers Union. He has contended that the union after coming into existence in July, 1962 organised 90 per cent. of the gangmen working in the Marmagao Port. It had also agitated for the abolition of the contract system of labour and as a result registration was given to those gangmen who had worked at least three months prior to the agreement, dated 27th April 1963. He has contended that the individual members of the Stevedores' Association used to pay bonus to the workmen of the category of winchmen prior to the year 1964. But the gangmen were being given stepmotherly treatment and the stevedores rejected the claim of the gangmen for bonus. The Bonus Commission had recommended that bonus to stevedoring labour should be paid on the basis of tonnage handled and the gangmen who were the workmen concerned in this reference were entitled to get bonus at the rate of 15 paise per ton.

3. The union has made a grievance about the conduct of the Association before the Conciliation Officer. It is alleged that during the conciliation proceedings the Association had not co-operated with the Conciliation Officer and it had adopted dilatory methods. The Association used to send different representatives to represent their case and the representatives have made various commitments from time to time. The President of the Association had also stated that stevedores would not object to the payment of bonus to the gangmen but a part of such liability should be met by Goa Mineral Exporters' Association. The wage of the gangmen was the lowest in the Port and it was a fit case that gangmen category workers should be granted bonus for the year 1963.

3. On receipt of the notice of the Reference the Marmagao Stevedores Association which was represented by its President Shri N. M. Dattani did not file any written statement in reply to the reference but by his application the President requested the Tribunal to grant one month's time for filing written statement on behalf of the employers and had further requested the tribunal to make the following two unions—

(1) The Goa Dock Labour Union (INTUC) and

(2) The Marmagao Port, Dock and Transport Workers' Union as parties to the proceedings. It was contended that these unions also represented some of the workmen of the category involved in the dispute.

4. Subsequently the General Secretary of the Marmagao Port, Dock and Transport Union made an application to the Tribunal on 21st July 1966 requesting that his union should be made a party to proceedings. My learned predecessor granted the application and accordingly the General Secretary of the Marmagao Port and Dock Workers' Union filed a statement contending that formerly gangmen workers who were working under Mukadams (contractors) were getting from the Mukadams every year an amount equivalent to wages ranging from one month to two months as bonus. The Marmagao Stevedores have owing to the increasing tonnage of export and quicker turnover in the Harbour made huge profits during the year in question and the gangmen were entitled to bonus at least 3/12 of the gross wages for the year 1963-1964.

5. It appears that the copies of the written statements of the unions were sent to the Stevedores Association but the Association did not prefer to file any written statement. After I took over I again issued notices on 4th January, 1968 and fixed the reference for hearing on 18th March, 1968. I also intimated the Association that it had not filed its written statement and could file a written statement within two weeks serving a copy to the other side. Still the Association did not file any written statement. It appears that subsequently in the meanwhile the gangmen had again represented their grievances and raised another dispute for the bonus for the years 1964-65, 1965-66 and 1966-67 which gave rise to another reference.

6. The Central Government by Order No. 28(127)/66-LRIV, dated 27th February, 1968 referred (Reference CGIT No. 4 of 1968) to this Tribunal for adjudication the second industrial dispute existing between the stevedore employers listed in the following schedule No. 1 and their workmen in respect of the matter specified in Schedule No. 2.

SCHEDULE I

1. M/s Lima Leitao & Co., Marmugao Harbour.
2. M/s Elesbao Pereira & Sons, Vasco-da-Gama.
3. M/s V. S. Dempo & Co. Pvt. Ltd., Marmugao Harbour.
4. M/s V. M. Salgaocar & Bro. Pvt. Ltd., Vasco-da-Gama.
5. M/s Chowgule & Bros., Marmugao Harbour.
6. M/s Marmugao Navegadora Ltd., Vasco-da-Gama.
7. M/s Shantilal K. & Bros., Vasco-da-Gama.
8. M/s Agencia Ultramarina Pvt. Ltd., Vasco-da-Gama.

9. M/s Damodar Mangalji & Co. Pvt. Ltd., Vasco-da-Gama.
10. M/s Agencia Commercial Maritima, Vasco-da-Gama.
11. M/s Froilano C. R. Machado, Stevedore, Marmugao Harbour, Vasco-da-Gama.
12. The President, Marmugao Stevedores' Association, Vasco-da-Gama.
13. The Chairman, Dock Labour Board, Marmugao.

SCHEDULE II

"Whether the gangmen working in Marmugao Port employed by the employers specified in Schedule I are entitled to payment of bonus for the years ending 31st March, 1965, the 31st March, 1966 and the 31st March, 1967? If so, what should be the quantum of bonus."

7. The Government of India had sent copies of this order by registered post to the Secretary, Transport and Dock Workers' Union, Vasco-da-Gama and the General Secretary, Marmugao Port and Dock Workers' Union and these two unions were parties. Subsequently Government by their order dated 5th March, 1968 informed this Tribunal that the copy of the order has also been sent to the General Secretary, Goa Dock Labour Union (INTUC), Vasco-da-Gama. Accordingly notices were issued to all the thirteen employers and the three unions for filing statements of claim and written statements in reply within two weeks and fixed the reference for hearing on 14th May, 1968. However, the parties did not file any written statements but informed the Tribunal that the matter was under negotiation.

8. Subsequently the Assistant Labour Commissioner (Central) Vasco-da-Gama sent to this Tribunal a memorandum of settlement under section 12(3) of the Industrial Disputes Act with a covering letter informing that by the settlement all matters including bonus which were pending between the disputants were amicably settled. It was further informed that the parties had agreed to file a copy of the said settlement before the Central Government Industrial Tribunal through the Assistant Labour Commissioner with a prayer that the Central Government Industrial Tribunal should be pleased to give a consent award on the basis of the terms of the settlement. In view of this settlement and correspondence again notices were issued to all the parties. But on the 16th of May 1968 the day of hearing only the representatives of Goa Dock Labour Board and the employers remained present. The unions did not attend the hearing and as the employers also wanted to make some amendments in the memorandum of settlement the references were adjourned and were fixed on the 10th of June 1968 at Goa. All the parties attending the hearing and submitted an agreed amendment to the settlement and requested for passing awards in terms of the agreement with the modification suggested in the amendment.

9. I have already stated that in Reference No. CGIT-78 of 1965 the unions had made a claim of bonus on behalf of workers of the category of gangmen for the year 1963 and in Reference No. CGIT-4 of 1968 the claim was on behalf of the same category but for bonus for the years 1964-65, 1965-66 and 1966-67. It is clear from the term included in the memorandum of settlement that the employers have agreed to pay bonus to the workmen at the rate of 6-1/4 per cent of the wages earned by them for the years 1963-64, 1964-65, 1965-66 and 1966-67. The term No. 2 provides for the earnings of the workers to be taken into account for the calculation of the bonus. Leave wages, holiday wages, dearness allowance, interim relief etc., are to be included as earnings for calculating the amount of bonus and it is clear that the parties have settled the disputes in the two references on proper basis.

10. As per settlement the employers have agreed to pay bonus to the workmen at the rate of 6-1/4 per cent of the wages earned which is clearly more than the minimum bonus provided under the Payment of Bonus Act, 1965 and the settlement is quite reasonable. The amendment suggested is in respect of the total wages the figures of which are to be taken from the audited balance sheets. It also clarifies the mode of recovery of the amount from the employers. The representatives of the workmen have agreed to all the terms of the settlement and the amendment and have signed the documents. They have also stated that the terms are reasonable and I do not find any difficulty in accepting the settlements.

11. There appears some discrepancy in the terms of reference in Ref. No. 78/65 and the settlement arrived at. Reference No. CGIT-78 of 1965 is in respect of the right of the gangmen for the payment of bonus for the year ending 31st December 1963 and one would think of bonus for the period of 12 months from 1st January 1963 to 31st December 1963. Hence I had issued notices again to the parties twice seeking clarification. However, the parties did not appear and it appears that they do not think that there is any discrepancy and the workmen have agreed to accept the bonus for the year 1963-64 instead of the year ending 31st December, 1963. It also appears consistent with

their case. It is clear from the written statement of the union that the workers had demanded bonus for the year 1963-64 for they have styled the written statement as "In the matter of industrial dispute relating to payment of bonus for the year 1963-64". The contract system of labour was abolished in April 1963. The gangmen were given registration under the scheme at about that time and it appears that hence the workmen accepted the bonus for the year 1963-64 from 1st April 1963 to 31st March 1964 and I do not find that the workmen will be put to any loss. The settlement is reasonable and I think it proper to pass awards in both the references in terms of the settlement as modified by the amendment. The settlement and the amendments in Annexures A and B shall form part of this common award in both the References.

No order as to costs.

(Sd.) A. T. ZAMBRE,
Presiding Officer,
Central Government Industrial Tribunal Bombay.

ANNEXURE 'A'

Memorandum of settlement under Section (23) of the Industrial Disputes Act, 1947.

PRESENT

Representing Employers	Representing the employees
1. M/s. Lime Leitao & Co., Mormugao Harbour.	1. Shri Mohan Nair, General Secretary, Goa Dock Labour Union, Vasco-da-Gama.
2. M/s. Elesbao Pereira & Sons, Vasco-da-Gama.	
3. M/s. V.S. Dempo & Co. Ltd., Mormugao Harbour.	
4. M/s. V.M. Salgaocar & Bros. P. Ltd., Vasco-da-Gama.	2. Shri Gerald Pereira, General Secretary, Margaoa Port, Dock & Transport Workers Union, Vasco-da-Gama.
5. M/s. Chowgule Brothers, Mormugao Harbour.	
6. M/s. Mormugao Navegadora Ltd., Vasco-da-Gama.	
7. M/s. Shantilal Kushaldas & Bros., Vasco-da-Gama.	3. Shri G. Bhadkamkar, General Secretary, Transport & Dock Workers Union, Vasco-da-Gama.
8. M/s. Agencia Ultramarina P.Ltd., Vasco-da-Gama.	
9. M/s. Damodar Mangalji & Co. P. Ltd., Vasco-da-Gama.	
10. M/s. Agencia Commercial Maritima, Vasco-da-Gama.	
11. M/s. Froilano C.R. Machado & Sons, Vasco-da-Gama.	
12. The President, Marmagao Stevedores Association, Vasco-da-Gama.	
13. The Chairman, Dock Labour Board, Mormugao.	

Sd/- P.T.S. MURTY,
Asstt. Labur Commissioner (Central),
Vasco-da-Gama.

Short Recital of the Case.

The Transport and Dock Workers' Union and Marmagao Port, Dock and Transport Workers' Union had raised a dispute regarding the payment of bonus to the gangworkers for the year 1963-64. After submission of a failure report by the then Conciliation Officer (C), Vasco-da-Gama the Government of India, Ministry of Labour, Employment and Rehabilitation referred the dispute for adjudication to the Central Government Industrial Tribunal, Bombay which is still pending before the said Tribunal under reference No. 78 of 1965.

2. Sometime back the Transport and Dock Workers Union, the Marmagao Port, Dock and Transport Workers' Union and the Goa Dock Labour Union had raised a dispute for the payment of bonus to the gangworkers for the year 1964-65. The Asst. Labour Commissioner (Central), Vasco da Gama held conciliation proceedings and submitted a failure report to the Government and the matter was pending with the Government.

3. All the above mentioned three Unions again served strike notices under Section 22 (1) of the Industrial Disputes Act 1947 in the last week of February 1968 stating therein that the registered stevedore workers i.e. gangworkers and the winchmen employed under the Mormugao Dock Labour Board would resort to an indefinite strike on any day after 10th March 1968 if no bonus was paid to them for the years 1965-66 and 1966-1967 before the above dates. The Asst. Labour Commissioner (C), Vasco da Gama has been holding conciliation proceedings from 2nd March 1968. In the meanwhile, the Government of India, Ministry of Labour, Employment and Rehabilitation (Deptt. of Labour and Employment) vide their notification No. 28(127)/66-LRIV dated 27th February 1968 referred the dispute regarding payment of bonus to the gangmen for the years ending on 31st March 1965, 31st March 1966, and 31st March 1967 for adjudication to the Central Government Industrial Tribunal Bombay which is now pending before the said Tribunal.

4. Thereafter, the Goa Mineral Ore Exporters Association approach Shri E. H. Simoes, the Chairman, Mormugao Dock Labour Board and requested him to utilise his good offices to settle the bonus issue amicably if possible. Accordingly the Chairmen held a series of discussions with the representatives of the Unions, stevedores and Exporters during the period from 4th March 1968 to 19th March 1968 and succeeded in bringing about an amicable settlement in regard to the payment of bonus for the years 1963-1964, 1964-1965, 1965-1966 and 1966-1967 in respect of the Pool gangworkers of the Mormugao Stevedores Association and Reserve Pool gangworkers of the Mormugao Dock Labour Board; and for the years 1964-65, 1965-66 and 1966-67 in respect of Pool winchmen of the Mormugao Stevedores Association and the Reserve Pool winchmen of the Mormugao Dock Labour Board.

5. It may be mentioned here that the incidence of the bonus for the years 1965-1966 and 1966-67 works out approximately to 6.9 and 7.9 paise per ton respectively on the basis of the output per gang per shift of 106 tons in 1965-1966 and 120 tons in 1966-1967.

Terms of Settlement

1. It is agreed that bonus shall be paid at the rate of 6½ percent of the wages earned by the workers as mentioned below:

- (a) for the years 1963-1964, 1964-1965, 1965-1966 and 1966-1967, to the Pool gangworkers of the Marmagao Stevedores Association and the Reserve Pool gangworkers of the Mormugao Dock Labour Board.
- (b) for the years 1964-1965, 1965-1966 and 1966-1967 for the Pool Winchmen of the Marmagao Stevedores Association and the Reserve Pool Winchmen of the Mormugao Dock Labour Board.

2. It is agreed that the following earnings of the workers shall be taken into account for calculation of the payment of bonus:

- (a) wages earned for the days assigned for work to the stevedores.
- (b) leave wages paid for the year in question.
- (c) holiday wages paid for the year in question.
- (d) learners allowance and interim relief paid for the days assigned for work to the registered stevedores.
- (e) guaranteed minimum wages paid for the year in question.
- (f) weekly off wages paid for the year in question.

In other words only House Rent Allowance and Attendance Allowance inclusive of D.A. and I.R. for the days the workers were sent back on attendance shall be excluded from the gross wages while calculating the payment.

3. It is further agreed that the payment calculated on the basis of the Audited figures for the years 1965-1966 and 1966-1967 with reference to the emoluments mentioned in item 2 above will be pooled together and payment will be made to the gang workers and winchmen as shown below:

- (a) Suppose the actual mandays of winchment are A and the winchman's basic wage is Rs. 4.40 and the gangworkers basic wage is Rs. 3.32, then the mandays of the winchmen should be increased by $\frac{A \times 4.40}{3.32} = 1.33 \times A$.

- (b) The above assumed mandays of the winchmen should be added to the actual mandays put in by the gangworkers in order to arrive at the rate per manday. This will be the rate of bonus of the gangworkers.
- (c) The bonus amount available on the basis of assumed mandays of the winchmen should be divided with the actual mandays of the winchmen in order to arrive at the rate of Bonus of winchmen.
- (d) The bonus should be paid to the winchmen and gangworkers on the basis of the actual No. of days they were assigned for work to the registered stevedores by multiplying the No. of days with rate of bonus arrived at under items (b) and (c) above.

4. It is agreed that the payment of the bonus for all the four years will be effected not later than 30th June, 1968.

5. It is agreed that a copy of this settlement will be filed before the Central Government Industrial Tribunal, Bombay through the Assistant Labour Commissioner (C) with a request that the Tribunal give a consent award on the basis of the terms mentioned in this settlement.

6. It is agreed that the Unions hereby withdraw the strike notices No. 207-B/DLB-S/68, dated 23rd February, 1968 served by the Goa Dock Labour Union (INTUC), (2) No. MPDU/46/68, dated 24th February, 1968 served by Marmagao Port, Dock and Transport Workers' Union (AITUC), and (3) No. nil, dated 27th February, 1968 served by the Transport and Dock Workers Union, Goa (HMS).

7. It is agreed that all the parties will furnish their report of the implementation of this settlement to the Assistant Labour Commissioner (C), Vasco da Gama on or before 7th July, 1968.

sd/-
(M/s. Lima Leitao & Co.)

sd/-
(M/s. Elesbao Pereira & Sons)

sd/-
(M/s. V.S. Dempo & Co. P. Ltd).

sd/-
(M/s. V.M. Salgaocar & Bro. Pvt. Ltd).

sd/-
(M/s. Choergule Brothers)

sd/-
(M/s. Mormugao Navegadora Ltd.)

sd/-
(M/s. Shantilal Kushaldas & Bros.)

sd/-
(M/s. Agencia Ultramarina Pvt. Ltd.)

sd/-
(M/s. Damodar Mangalji & Co. P. Ltd.)

sd/-
(M/s. Agencia Commercial Maritima)

sd/-
(M/s. Froilano C.R. Machando & Sons).

sd/-
(The President, Mormugao Stevedores Association)

sd/-
(The Chairman, Mormugao Dock Labour Board).

Sd/- MOHAN NAIR, General Secretary, Goa Dock Labour Union, Vasco-da-Gama.

Sd/- GERALD PEREIRA, General Secretary Marmagao Port, Dock and Transport Workers' Union, Vasco-da-Gama.

Sd/- G. BHADAKAMKAR, General Secretary, Transport & Dock Workers' Union, Vasco-da-Gama.

Sd/- P.T.S. MURTY,
Assistant Labour Commissioner (Central),
Vasco-da-Gama.

Witness —

1. sd/-

2. sd/-

Vasco-da-Gama,
Dated 20th March, 1-3-68.

ANNEXURE 'B'

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY

REFERENCE CGIT 4 OF 1968

Employers in relation to M/s. Lima Leitao & Co. Ltd., Mormugao and 12 others.

AND

Their Workmen.

Sir,

With reference to your notice No. Ref. 4/68/596/68, dated the 1st May, 1968, we the undersigned note that the settlement dated the 20th March, 1968, entered into between the parties in reference No. 78 of 1965 and in reference No. 4 of 1968 has been forwarded to the Tribunal by the Assistant Labour Commissioner (Central), Vasco da Gama and pray the Tribunal for giving an award on the basis of the terms incorporated in the said settlement. We further submit that clause No. 1 and 3 of the terms of the said settlement need slight modification in order to avoid any misunderstanding. We further submit that after clause 3, clause 3A be added to the said settlement in order to clarify the mode of recovery of bonus amount from the registered employers.

Clause 1 may kindly be amended as stated below:

It is agreed that the bonus amount, for each year under reference shall be equivalent to 6½ per cent. of the total wages, as defined under clause 2 of this agreement and as per the figures mentioned in audited balance sheet for the relevant years.

Items A and B of clause 1 of the terms of the settlement need no amendment.

Clause 3 may kindly be amended as stated below:

It is further agreed that the amount arrived at, as per clause 1 of this agreement for each year under reference shall be distributed to the gangworkers and winchmen, as per the formula prescribed below:

Items No. A, B and D of clause 3 of the settlement need no amendment.

Clause 3A may kindly be added as stated below:

It is further agreed that the amount of bonus payable to the workers for each year will be recovered from the registered employers on pro-rata basis according to the tonnage handled by them during the year in question.

Yours faithfully,
(Sd.) T. T. TAYADE,

Deputy Chairman,
Mormugao Dock Labour Board.

Mormugao,

Dated the 14th May, 1968.

(Sd.) G. G. VELHAL,
Officiating Deputy Chairman,
Mormugao Dock Labour Board.

The above amendments to the original settlement are acceptable to us.

(Sd.) Illegible

General Secretary,

Goa Dock Labour Union, Vasco da Gama.

(Sd.) Illegible

General Secretary,

Mormugao Port, Dock and Transport Workers' Union

Vasco da Gama.

(Sd.) Illegible

General Secretary,

Transport and Dock Workers Union, Vasco da Gama.

No objection to amendments suggested above.

Sd/- RAMESH DESAI,
16-5-68.

On behalf of M/s. Lima Leitao and 12 others
and Mormugao Stevedors Association.

[No. 28(127)/66-LRIV.]

New Delhi, the 7th August 1968

S.O. 3155.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to Messrs Krishna Commercial Company and Messrs Mahesh Transport Company, Bombay and their workmen, which was received by the Central Government on the 6th August, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY

REFERENCE No. CGIT-73 OF 1965

PARTIES:

M/s. Krishna Commercial Company, Bombay and M/s. Mahesh Transport Company, Bombay.

AND

Their Workmen.

PRESENT:

Shri A. T. Zambre, Presiding Officer

APPEARANCES:

For the employers.—Shri P. N. Tulsiani, Advocate.

For the workmen.—Shri R. A. Pandit, Secretary, Transport & Dock Workers' Union.

Bombay, 29th June, 1968

AWARD

1. By order No. 28/108/65-LRIV dated 29th November, 1965, Government of India Ministry of Labour and Employment have referred to this tribunal the industrial dispute existing between the employers in relation to M/s. Krishna Commercial Company and M/s. Mahesh Transport Company, Bombay and their workmen in respect of matters specified in the following schedule.

SCHEDULE

Whether the management of M/s. Krishna Commercial Co., Bombay and M/s. Mahesh Transport Co., Bombay are justified in not implementing the interim recommendations of the Wage Board for Port and Dock Workers as published with the Government of India, in the Ministry of Labour and Employment resolution No. WB.21(13)/65, dated 27th April, 1965 in respect of their Cement/Clinker handling workers at Bombay Port? If not to what relief are the workmen entitled to and from what date?

2. The circumstances giving rise to the dispute leading to this reference may be stated in brief as follows:—

The employers in relation to M/s. Krishna Commercial Co., Bombay are stockists and contractors of Digvijaya Cement Company Ltd., having their dock office at 9, P.D.' Mellow Road, Bombay-1. The company is a partnership firm which was started in the year 1949 originally with two partners.

Subsequently, there were changes in the constitution of the firm. At the relevant time there were six partners and the office of the firm was situated at 216, Kalbadevi Road, Bombay-2.

3. The Digvijaya Cement Company sends cement and clinkers by ships and the employers who act as contractors get the cement and the clinkers and loading the material in trucks get it transported to the warehouse. The firm used to get loading work done by a gang of 30 people paying them the charges at the rate of 45 ps. per ton for cement and 65 ps. per ton for clinkers and the employees are piece rate workers. Up to August, 1965 the firm, Krishna Commercial Company used to load both cement and clinkers sent by the company.

4. It appears that after August, 1965 the loading work of the clinkers was done in the name of M/s. Mahesh Transport Co., when the workers of the gang came to know about this change in the name they refused to do the clinker-loading work as they were the workers of the Krishna Commercial Co. and their identity cards and photo cards were bearing the name of Krishna Commercial Co. as employers. But at that time Shri Munna-lal Sheth, the partner of the Krishna Commercial Co., wrote necessary letter to the dock authority and the gangmen continued doing the work of loading the clinkers as before.

5. The Government of India by their resolution No. WB-21(4)/64 dated 13th November, 1964 had constituted a Wage Board for the Port & Dock Workers at major ports. One

of the terms of the reference to this wage board was that the board should make necessary recommendations on the demand of labour for interim relief, and on 7th April, 1965 this wage board had submitted its report to Government, containing their unanimous recommendations for granting interim relief and also the payment of additional dearness allowance to the Port & Dock Workers. The Government of India accepted the recommendations of the board by their resolution dated 27th April, 1965 and requested the concerned employers to implement the recommendations of the board regarding the interim relief and payment of additional allowance.

6. The workers who are the members of the gang doing the loading work of cement and clinkers for Krishna Commercial Company are the members of the transport and dock workers' union, Bombay and after the recommendations of the wage board were accepted by the Government, the union approached the employers for the implementation of the recommendations by a letter dated 18th August, 1965 informing that they are required to pay the benefits of interim relief and additional dearness allowances to the workers from the dates mentioned in the wage board recommendations. However, the employers failed and neglected to pay such benefits and hence the matter was referred to the Regional Labour Commissioner who called both the companies Krishna Commercial and Mahesh Transport for a meeting and started conciliation proceedings. However, Krishna Commercial did not attend the proceedings and Mahesh Transport wrote to the conciliator that they commenced the work only in August, 1965 after the recommendation were made by the board. The wage rates were also fixed lately and there was no question of payment of interim relief or dearness allowance in their case. The conciliation proceedings were not fruitful. The conciliation officer had to send the failure report and hence the government referred this dispute to this tribunal for adjudication.

7. The Transport and Dock workers' union had by its statement contended the Krishna Commercial Company was a firm of clearing agents handling the cement clearing work of Digvijaya Cement Co. It contended that the firm engaged number of workers for the purpose of loading. The government had accepted the recommendations of the wage board regarding interim relief and additional dearness allowance to the port and dock workers. The gang men doing the loading work with the employers were the dock workers under the act and were entitled to get the interim relief and additional dearness allowance from the date mentioned. They were entitled to get the dearness allowance from 1st October, 1964 and interim relief with effect from 1st February 1965 and the company had not paid the benefits to the workers.

8. The union has alleged that the firm, Krishna Commercial Co. had set up a new company styled as Mahesh Transport Co. and this new company had taken over the business of Krishna Commercial Co. The Mahesh Transport Co. was nothing but a subterfuge and should not be considered to be a new company but only a continuation of M/s. Krishna Commercial Co. under the new name and style of Mahesh Transport Co. The representatives of both the companies had failed to attend the conciliation proceedings and the workers engaged by Krishna Commercial as well as Mahesh Transport were covered by the recommendations of Central Government Wage Board and were entitled to get the benefits from the employers. In the statement of claim which is dated 22nd March, 1966 the union had claimed the following items:—

1. Dearness allowance of Rs. 7.50 per month or 29 paise per shift from 1st October, 1964.
2. Interim relief of Rs. 7.80 per month or 30 ps. per shift with effect from 1st February, 1965.
3. Additional dearness allowance of Rs. 5/- per month or 19 ps. per shift from 1st March, 1965.
4. An additional dearness allowance of Rs. 5/- per month or 19 ps. per shift from 1st December, 1965.

Notices of this reference were issued to the employers but they could not be served for one reason or the other and the notices were returned three, four times. After service of the notices the employers filed written statement dated 30th November, 1966, M/s. Krishna Commercial Co. by their written statement contended that there was no relation of master and servant between themselves and the workers purported to be represented by the union and there was no question of any claim in the matter of implementing the interim recommendations of the wage board. They have further contended that they ceased working from 31st July, 1965 and the reference was not maintainable. In the alternative it was contended that if it was held that there was master and servant relation between the workmen and the company the workers were not dock workers. They were not covered by Dock Workers (Regulation of Employment) Act 1948 and were not entitled to claim any benefit.

9. The second company, Mahesh Transport had also opposed the reference contending that it is a firm separate from and independent of Krishna Commercial Co., it was a separate legal entity and was not successor in interest of Krishna Commercial Co. and was not in any way concerned with it. They had denied to have taken over the workman working with Krishna Commercial Co. and had alleged that there was no relation of master and servant between them and the workmen purported to be represented by the transport and dock workers' union. They had contended that one Dhondiba Bhanu Shinde worked with them on a contract basis for the work of loading the clinkers at the rate of 65 ps. per ton. The workers were employed by Shri Shinde and are under his control or supervision and not entitled to any benefit from the company. It was further contended that as the company came into existence after the constitution of the wage board, it had no concern with the wage board and they were not bound by the recommendations.

10. When this matter came for hearing before me the employers filed further written statements dated 12th February, 1968 and contended that they were not listed employers and did not carry on the business of such employers. They did not fall under the terms of reference prescribed by the government and the question of the implementations of the recommendations for interim relief did not arise. The reference was further challenged on the contention that the two firms Krishna Commercial and Mahesh Transport Co. were separate and independent. There could not be a joint reference and the reference was bad for misjoinder of parties. It was further contended that the companies were not in law bound to pay the interim relief recommended by the wage board and the workmen were not entitled to claim any benefit from them. It was alleged that the dispute between the Krishna Commercial Co. and their workmen which was pending for adjudication in reference No. CGIT-4 of 1964 had been adjudicated and the Central Government Industrial Tribunal has passed an award. It is binding on the parties. The union has not terminated the award and hence this reference was not maintainable.

11. Regarding the earnings of the workers it was alleged that on an average the earnings of each worker per shift on the basis of contractual payment, works out to Rs. 9/- per worker per shift and the wages falling to the share of each worker during the period from 12th November, 1964 to 8th October, 1965 on an average amounted to Rs. 265/- monthly. The work did not involve any skill and there is no justification for claiming additional dearness allowance and interim relief. Both the employers were also not financially strong and were unable to bear the financial burden of the interim relief recommended by the wage board and the reference should be dismissed.

12. It is not in dispute that as contractors of the Digvijaya Cement Co. the employers M/s. Krishna Commercial Co. were doing the work of loading the cement and clinkers imported by that company. After the arrival of the ship the goods were unloaded on the wharf and the workers had to load the cement bags or the clinkers into the trucks of the company for transport and the employers were doing this work continuously from 1950 onwards. The union has alleged that recently few days before this reference the partners of M/s. Krishna Commercial had with a view to deprive the workers of the benefits formed a new company known as Mahesh Transport Co. and this new company had taken over the business as well as all the workmen who were working under Krishna Commercial Co. without a break in their service. The services as well as service conditions in the matter of the wage rates were continued by the Mahesh Transport Co. and for all practical purposes Mahesh Transport Co. could be considered the same as Krishna Commercial Co.

13. It was contended that the Krishna Commercial had not given the benefit of the recommendations of the wage board to the workers and with a view to avoid the payment permanently they had set up the new company which was styled as Mahesh Transport Company and the new company had taken over the business of Krishna Commercial Co. It was nothing but a subterfuge and would not be considered as a new company and was only a continuation of the Krishna Commercial Co. in the name and style of Mahesh Transport Co. and both the companies were liable to the workers.

14. Both the companies have denied these allegations and have contended that the new company Mahesh Transport Co. was a separate firm and quite independent of Krishna Commercial and was a separate legal entity, and it was not a successor in interest of the Krishna Commercial Co. In support of this contention the Krishna Commercial Co. produced the partnership deeds Ex. E1 dated 17th June, 1950 and Ex E2 dated 24th October, 1965. M/s. Mahesh Transport Co. have also produced their partnership deed Ex E3 dated 3rd September, 1965. This documentary evidence proves that the companies are separate firms. The union has not adduced any evidence to show that the partners though different in name are the same and have common interest in the company and it shall have to be held that the new company is not a continuation of Krishna Commercial Co. The two companies are separate entities. At the time of arguments the union has also conceded that there was no evidence and that the Mahesh Transport Co. was a separate company. But regarding the business it has been contended that the new company has taken over the

clinker work of the Krishna Commercial Company with the workers and both the companies are liable to pay the benefits recommended and the further question is whether the Mahesh Transport Company has taken over the whole business of Krishna Commercial Co. or the clinker work only.

15. M/s. Krishna Commercial had by their written statement contended that they ceased working from 31st July, 1965 and the reference was not maintainable. It was stated in the written statement:

"This party ceased working from 31st July, 1965 and hence the present reference is not maintainable."

However the evidence shows that this contention raised by the company is quite false and the suggestions in that respect are not true. The evidence of Shri Munnalal examined by the company is inconsistent with this defence and it is clear that the company is still carrying on the business of loading cement imported by the Digvijaya Cement Co. The witness Munnalal is a partner of Krishna Commercial Co., and has state:

"Krishna Commercial Co. is still doing the business. Krishna Commercial Co.'s business is transport and cement.....Our firm has taken over the contract from Digvijaya Cement Co. They used to send cement by ship and our firm has taken the contract to unload the cement clinkers. We had engaged one Dhondiba Banu Shinde as mukadam. Even now he is our mukadam. Our contact with Digvijaya Cement Co. for loading unloading and for transport. We had agreed to pay to Dhondiba 45 ps. per ton for loading cement and 65 ps. for clinkers per ton."

He had further stated

"I manage and supervise cement transport work. I do not handle cement work. Sometimes I go to ships in the docks. About 25 or 26 workers do the work of loading trucks. I have personally seen. Payment is made at the rate of 45 ps. per ton for cement and 65 ps. for clinkers."

This evidence of the partner is clearly contrary to the contention raised by the company in the written statement. The learned counsel has not also argued this point and it shall have to be held that the company is still doing the business of loading cement through the same workers and there is no question of the reference being not maintainable on that account.

16. Though the reference has been opposed by the two employers on various grounds the most important defence raised by both the companies is that there is no relationship of master and servant between them and the labourers doing the work. They have contended that one Bhondiba Shinde worked with them on contract basis and he did the work of loading the materials and they paid him charges at the rate of 65 ps. per ton. They had not employed the workmen and had no right to control the method of doing the work and there was no relationship of master and servant and the workers are not entitled to claim any benefit from them. The union has denied these allegations and have contended that the workers are employed by the company and in support of the case they have examined the workman Dhondiba Shinde and witness Ramanugraha Muniswara Pandit and I shall first discuss the evidence about the type of the work and the circumstances showing the nature of the relations between the parties.

17. Witness Dondiba Shinde has stated

"I have been working in the employ of the Krishna Commercial for the last 19 years. There were about 29 workers working with them. I carry on the work which is done by the other labourers. All of us do the work of loading lorries of Krishna Commercial and Mahesh Transport with cement and clinkers which has been imported in ships. This loading work is done in the docks. We load the cement and clinkers at the wharf. The heaps are on the wharf and we load them. We get the wages at the rate of 45 ps. per ton for cement and 65 ps. per ton for clinkers for loading."

Regarding the division of the workers in two shifts by the employees he has stated

"We 29 workers are divided into two shifts. Shri Munnalal Sheth the witness has fixed our shifts about what workers should work in what shifts. And according to that direction we work in the shift. I only work in one shift. I have no connection with the workers who work on the other shift in which I do not work."

He has further stated

"Our first shift is from 8 a.m. to 5 p.m. and the second shift is from 5-30 p.m. to 12 mid-night. The workmen of the first shift are required to attend duty

at 8 a.m. and the persons working in the second shift have to attend at 5-30 p.m.

As regards the payment he has stated

"We all workers do not go to office situated at 216, Kalbadevi road. But 4 or 6 people come with me and we collect the wages. Nowadays Ramniwas pays the amount to us. One Bharat the tally clerk of the company who works in the dock sends a bill giving the quantity of work done and thereafter the amount is calculated at the rate of 45 ps. The bill for a clinker is also prepared by Bharat. We take that bill to the office at 216, Kalbadevi and we hand it over to Ramniwas who calculates and gives the amount. Though we 5 to 6 go to the office Ramniwas takes my signature. Thereafter we distribute the amount among ourselves equally according to our attendance."

This evidence of Shinde shows that all these workers are working as a gang in two shifts are paid on piece rate basis Shri Munnalal Sheth of Krishna Commercial had divided the workers into two shifts. The first shift is from 8 a.m. to 5 p.m. The persons in the first shift are required to attend at 8 a.m. and workman in the other shift are required to attend at 5-30 p.m. The workers have to carry on the work on the wharf. Shri Bharat Umare who is the tally clerk is always with the workers on the wharf. He keeps the record and sends the bill giving the quantity of the work done and this evidence clearly shows that the persons working in both shifts are workmen employed by the company.

18. Had Shinde been a mukadam in the sense of a contractor who had taken contract of doing the loading work from the company, he would not have worked as a labourer. He would have also remained present for supervision over the work of the labourers in the other shift or would have kept somebody for supervising the work of both the shifts. The workers have no freedom to work at any time they please. They have to work only during the time of shift and neither before nor after the shift hours. As regards the place they have to do the loading work only at the wharf. It is clear that there are many restrictions on the working by the labourers. The evidence of witness Shinde further shows that it was Munnalal Sheth who had divided the workers in two shifts and fixed the shifts indicating what workers should work in what shifts. He had further stated that according to his direction they work in the shift. If there arrive two shifts one of clinkers and one of cements the workers will start working as per direction. The evidence of Shinde is not challenged in this respect and these circumstances are consistent with the case of the union and strongly indicate that the workers are in the employ of the company.

19. The two companies had examined witness Munnalal partner of the Krishna Commercial and Shri Pannalal the partner of the Mahesh Transport Co. who have stated that the 30 workers are employed by Shinde. Had it been true Dhondiba himself would have divided the workers in the shifts. However Shri Shinde has stated that Munnalal Sheth who punishes the workers for the default and if the worker does not get the share of his wages he makes a complaint to Munnalal. Munnalal makes the enquiry as to who had taken the share and the worker who has received the amount by mistake is required to pay back the amount to the worker entitled to. This evidence shows that the employers have not only control regarding the work but have also disciplinary control over the workmen. Munnalal Sheth has himself stated

"I manage and supervise the cement transport work in the docks. About 25 or 26 workers do the work of loading trucks."

This evidence clearly shows that the workers are the employees of the company and there is a relationship of master and servant between them and the company.

20. The Learned Counsel Shri Tulsiani who represented both the companies has relied upon the circumstances regarding the payment of the wages to Dhondiba Shinde and has argued that all payments for the work done are made to Shinde. It was Shinde who has signed all the receipts Ex. E3, E4, & E5 and that this evidence proved that Shinde was a contractor of the company. Learned counsel has further relied upon the ruling reported in 1966(1)LLJ at page 735 India General Navigation and Railway Company Ltd. versus their workmen and has argued that the facts in the case reported are similar to the facts in the present case and payments of the charges to Shinde proved that he was a contractor.

21. Ordinarily documentary evidence of receipts could have been considered in favour of employers to show that the payments were made to Shinde only. However in this case the receipts produced by the company, in my opinion, do not deserve any serious consideration. It is not in dispute that Shinde is an illiterate person and cannot read and write. The receipts E3, E4, E5, E6 bear thumb impressions which are not subscribed by any body. Secondly Shri Shinde has stated that various receipts bear the thumb impression of other workers also. He states

"I am shown a number of receipts on stamps. They bear the impression of my self. I again say that they bear the thumb impression of other workers.

When I was not there other persons also signed. I am shown Ex. E4. I am shown the thumb impression dated 17th May, 1965. It bears the thumb impression of Laxman Shankar and not my thumb impression."

I have already observed that all these 29 workers in two shifts work as a gang. They are paid on piece-rate basis. Shinde has stated about four or five of them go to the office of the employers and collect the wages and thereafter they distribute the amount equally among them according to their attendance and the mere fact that the receipts bear thumb impression does not necessarily show that the amount was paid to him as the contractor. It is clear that all the workers in the shift work in a group. The wages are fixed on piece-rate basis at 45 ps. per ton or 65 ps. per ton. The work is done jointly and it can be said that only for the sake of convenience the signature of one of them is taken. The employees make the lump sum payment to one of them and that amount is distributed by them among themselves, and the thumb impressions of the workman is obtained with a view to have some record.

22. The evidence regarding the receipts shall be required to be appreciated taking into consideration the background and the history of the payments. Formerly the employers were making the payments to all the individual workers but the same was found inconvenient. Subsequently it was changed. Formerly all the workers were getting wages at the office of the company at 312, Kalbadevi road. These payments were made in the evening and hence the union had made complaint and a grievance to the employers under Ex W1 dated 30th June, 1960. This letter is written by the union secretary regarding the payment of wages to the cement workers. In this letter the secretary has written to Krishna Commercial :

"It has been brought to our notices that some workers working under you are not paid wages regularly and in time. It is reported that the wages are paid to them always after 8 p.m. at Kalbadevi which has proved great inconvenience to them. They feel that the payment of wages during the night time and carrying of money with them at that time is not free from danger."

In this letter the secretary had also written about the reduction of the rate of cement workers from Rs. 2.19 ps to Rs. 2 per 100 bags. It appears that after this letter the company did not pay any attention to the grievances and the workers had gone on strike and the company had written a letter to the union. This letter is Ex W12 dated 9th July, 1960. The very fact that this letter is written by Shri Sarada the manager of Krishna Commercial to the secretary of the union making a grievance of the abrupt stoppage of work shows that the coolies whom he refers as our cement coolies were the employees of the company. As regards the payment made to the coolies and reduction of rates he has written

"As regards our rates we will request you to verify from our old bills signed by the coolies that we have not reduced any amount of rate and not changed the rates of loading. Further we are prepared to pay our coolies at the same rate which they have accepted previously. But they remark the same as reduction in rate which please note."

This evidence further shows that formerly individual labourer coolies were paid by the company upto 1960. But subsequently the method has been changed. Shinde has referred to this payment made at 312, Kalbadevi road and has stated—

"now-a-days we get our wages from the office situated at 216, Kalbadevi Road. We all workers do not go to office but about four or six people come with me and we collect wages."

This further shows that payment made to one of the workers is only a matter of convenience and thereafter the workers distribute the amount among themselves equally according to their attendance.

23. When Shri Shinde was giving evidence he had some soiled papers in his hand. The learned Counsel took some of them for inspection and requested the tribunal to exhibit it. It is E7. This document is nothing but a list of some workers. Against the name of each an amount of Rs. 79/- has been written. This document does not help the employers. On the contrary it supports the union's evidence and the case that the amount received from the employers is distributed by the workers among themselves equally. In the ruling "Indian Navigation and Railway Company" their Lordships of the Supreme Court considered the evidence and held that there was no relationship of master and servant between company and labourers employed by the contractor. Their Lordships have observed :

"It is true that this document shows that appellant 1 assured the workmen that they should be paid according to the rates agreed but this does not show that the workmen became the employees of appellant 1. There appears to be no dispute that contractor employed the workmen and not appellant 1. This position became absolutely clear if we consider the statement of claims made

by the union before the tribunal. The union alleged that by virtue of agreement of 1954, the 56 workmen were to become the direct employees of appellant 1 on and from 1st April, 1960."

It has been further observed that—

"In fact the documents on which the tribunal has relied themselves show that all that appellant No. 1 had agreed was to introduce the method of direct employment in future."

In this case the amounts were paid to the contractor and the fact about the person to whom the amount was paid was not in dispute. The fact that there was a contractor and that the labourers were in the beginning his employees was not also in dispute and the only question to be decided was whether the labourers had become the employees of the company. I do not think that the facts of the case are similar to the facts of the present case and this ruling will not be applicable. I have already discussed the evidence and observed that formerly the company was making the payments to the individual labourers but subsequently the mode of payment was changed due to the inconvenience. And the evidence shows that Shinde was working not as a contractor but he was an ordinary labourer and a workman in the employ of the company. The circumstances that some four or five workers accompanied him to the office of the company for collecting the amount and his thumb impression is taken would at the most show that he is a mukadam in the sense, the head of the group. He is not a contractor and the union has proved that the coolies doing the cement loading work are the workmen of the company.

24. The documentary evidence also proves the truthfulness of the case of the union. During the examination of the witnesses the union has produced some documents to show that the workers were employed by the company and there was relationship of master and servant between the workers and the Krishna Commercial Co. It is common knowledge that a worker cannot enter the Bombay dock premises without a dock entry permit. Such permits are issued only to persons who are in the regular employ of some employers. In the cross examination witness Munnalal Sheth, the partner of the Krishna Commercial has admitted that he obtained the permission for the workers and has stated:

"It is correct to say that it is necessary to obtain permit for new labourer engaged on my work for loading. I again say I do not know if I make an application to the dock manager for permit for new workers. But some clerks from my office may be doing it."

When he was shown the dock permit cards Ex. W1 and W2 he had identified them and admitted saying:

"It is correct to say that our firm supplies information about the contents of these permits."

The contents of these permits are:

EX W1 Permit No. 100637.

Name of the employer:—M/s Krishna Commercial Co.

Address:—312 Kalbadevi Road.

Ex W2 Permit No. 2: 18057.

Name of the employer:—M/s Krishna Commercial Co.

Address:—216, Kalbadevi Road.

These contents prove that M/s Krishna Commercial are the employers of the two workers and there is no substance in the contention of the company that there is no relationship of master and servant between them and the workers.

25. It has come in evidence that in the month of May 1962 some dispute was settled between the workmen of Krishna Commercial and the management. The settlement has been produced as a part of Ex. W6. In this document in the short recital of the dispute it is stated:

"The dispute was referred by the transport and dock workers union, Bombay vide its letter dated 9th April, 1962. According to the union the management has not had issued any identity cards to its workers and do not observe regular working hours. Further the management did not maintain any records of payment made to the workmen. The union also asks for upward revision of piece rate paid at present. The management stated that the workmen were employed by the Dhondiba and it was he who was responsible for maintaining

records issuing identity cards etc. However as a result of discussions the dispute was settled on the following terms:—

1. The management will issue photo identity cards as prescribed by the Bombay Port Trust to 60 workmen normally employed on the job. A list of these workmen will be prepared and kept by the company for reference purposes.
2.
3. The management agreed to observe working hours as adopted by the Bombay Port Trust for its employees.
4.
5. The management agrees to keep records as prescribed by the Payment of Wages Act.

26. This settlement has been signed by management and officers of the union. Had there been no relationship of master and servant between the company and the workers the company would not have attended the meetings held by the conciliation officer or taken part under section 12 of the Industrial Disputes Act, for bringing about the settlement. Even if it is accepted for the sake of argument that the company had raised any objection and that there was some substance in the contention, it is clear that the company had given it up and accepted the coolies as their workmen. The evidence further shows that as per this agreement the company had issued photo identity cards to the workmen. It is also clear from the evidence that there was some dispute over the supply of shoes to the workers who had a demand to the company and the company had accepted the demand and twenty workers were supplied with shoes. The union has produced the letter dated 20th July, 1962 exhibit W8 in which Krishna Commercial has written that as per the letter dated 9th they had given 15 shoes pairs to the coolies working in cement clinkers and on getting more shoes they would do the needful. The agreement shows that the employers were to keep the List of the workers and the record as required by the payment of wages act. Had the workers been not in the employment of the company, the company would not have agreed to maintain the record. It is also clear from the award Ex. W9 that in the dispute between the workmen and the company in reference No. CCIT-4 of 1964 the company had given up their contention about jurisdiction on the ground of relationship and the documentary evidence also proves that the labourers were employees of the Krishna Commercial and there is no substance in the contention that there was no relationship of master and servant.

27. The documentary evidence refers to the incident that took place before the year 1965. The Mahesh Transport Co. was constituted in August 1965. It was not a party to various acts and the learned counsel on behalf of the management has argued that there is absolutely no evidence to prove that the labourers were in the employ of the Mahesh Transport Co. I have already discussed the evidence of Dhondiba Shinde which makes it clear that he is not a contractor. But he acts as one of the labourers working in one shift, and can be said the head of the group. M/s. Mahesh Transport Co. had examined their partner Ramniwas Pannalal. The examination-in-chief of this witness consists of ten lines in which he has stated mainly about the constitution of the partnership and the business. Regarding the main point about the relationship of master and servant he had stated that the work was being done by Dhondiba Shinde and that they paid him 65 ps. per ton for clinkers and has produced the receipts regarding payment. It is this the case of company that it came into existence in the month of August 1965. It is not the case of this company nor is there any evidence that this company had entered into any contract with Dhondiba Shinde. It is not in dispute now that the same coolies are working for Mahesh Transport on the same rates of charges. But this evidence has no where stated how the workers started and worked for the new company and that too on the same rates of wages and on the same terms and conditions. This witness has not also stated that the new company entered into a contract with the Digvijaya Cement Company and thereafter engaged the services of Dhondiba or the workers. On the contrary, the evidence shows that this group of labourers was doing the work of loading the cement and clinkers for M/s. Krishna Commercial and even though the new company came into existence the workers did not know about it and continued the work as before and the mode of the work remained the same. It is not the case of employers that M/s. Krishna Commercial had given notices to the workers about the new company or the cessation of this work of unloading the clinkers. On the contrary it has come to evidence that the workers came to know about the formation of the new company from the chit (challan forms Ex. W2A) made by the tally clerk in different name. Dhondiba Shinde has stated:

"I know Mahesh Transport Co. It was from the 4th of some month in the year 1965. I cannot remember the exact month. But we learnt it from the chit seeing the name from the chit. We workers raised a dispute that we will not work for other company as our photo pass was bearing the same name of Krishna Commercial. At that time Munnalal Sheth wrote a letter to

the dock authority that the worker of Krishna Commercial will do the work of Mahesh Transport and they will be allowed.”

This evidence leaves no doubt that the employers M/s. Krishna Commercial did not let their workman know that they themselves have stopped their business of loading clinkers and the workmen should not do the work on their behalf. They also did not give any notices to the workers about the formation of the new company or that the part of the work would be recorded in the name of that company.

28. On the contrary the evidence shows that on coming to know about the other company, the workers were not willing to do the work of the other company. But the partner of Krishna Commercial persuaded them in that respect. Dhondiba Shinde has stated:

“Sheth asked us to start work. He also told us that he had informed the port trust and the photo pass also will be valid for the Mahesh Transport Co.”.

The employers' witness Shri Pannalal the partner of the Mahesh Transport has admitted in his cross examination that the Mahesh Transport Co. did the work of loading clinkers and transported it to the Digvijaya cement co. and transport is made in trucks. Though he has feigned ignorance about the loading of cement by Krishna commercial it is clear from the evidence of Shri Munnalal and Dhondiba that the challans about cement are in the name of Krishna Commercial and that company is doing the cement work. Pannalal has stated that Mahesh Transport is doing the clinker work only. Thus since August 1965 the work of loading the cement and clinkers done by the workmen which was previously recorded on the challans of Krishna Commercial is being recorded in two challans. Cement work on the challans of Krishna Commercial and clinkers work on the challans of Mahesh Transport Company and thus the workers came under the employ of both the companies including Mahesh Transport Co.

29. The workers continued to do the work for Mahesh Transport Co. also on the same terms and conditions as agreed with Krishna Commercial and the evidence leaves no doubt that Mahesh Transport Co. has taken over the work of cement clinkers of Krishna Commercial Co. along with the workmen without any break of service and there is the same relationship of master and servant between them and Mahesh Transport Co. which existed between the Krishna Commercial and these workmen.

30. This inference will be further corroborated by the evidence of the secretary of the union witness Shri Pandit who has referred to the dispute between the two companies and the workmen regarding the bonus. The workmen had demanded bonus for the year 1966-1967. The secretary of the union has stated:

“In the year 1967 I had an occasion to discuss with Krishna Commercial about the disputes of the workers. One dispute was in connection with bonus for the workmen. The other was in connection with the interim relief as recommended by the Wage Board. The workers are working for both Krishna Commercial and Mahesh Transport Co. The officer of the company came to my office. Babulal was representing both the companies and even Munnalal was representing both the companies. The management of both the companies agreed to pay the bonus at the rate of 4% of the total earnings.”.

He further states:

“The management of the companies worked out the total and showed it to me. Thereafter the men of the companies worked the share of the workmen and showed it to me. I consulted the workmen regarding their earnings and the figures were okayed.”.

The evidence of this witness further shows that in respect of these disputes before the conciliation officer both the companies have taken part and they were represented by the same persons. Witness Shri Pandit has stated:

“Babulal Sheth represented both the companies before the conciliation officer and Advocate Shri Tulsiani who is working for the companies now was also present in the conciliation proceedings for the companies. From my experience and dealing with the two companies I say that the statement of the companies that the workers are not employees of the companies and are the workers of Shinde is not true.”.

31. The oral evidence of the witness Shri Pandit is supported by the letters which he had written to the two companies. These letters are in respect of the bonus of the workers. They are at Ex. W3 and W4.

Ex. W4 dated 25th May, 1967 refers to the talk between the representative of the employers and the union regarding the bonus, and it shows that the representatives of both the companies had assured the union to give a reasonable bonus and by the letter the union requests them to settle the matter.

By Ex. W3 dated 16th June, 1967 the union has asked the employers to furnish the accounts for the last financial year showing the total earnings of the cement and clinkers handling workers. Ex. W4 is addressed to both the companies and the evidence proves that the Mahesh Transport Company has also taken part in the settlement of the issue of bonus. Had the workers been not in their employ they would not have given the bonus as per demand made by the union. It is further significant to note that this Mahesh Transport Company itself had written the letter Ex. W10 dated 17th April, 1967 at the time when the workers had resorted to strike and stopped work. By the letter they requested the union and informed that the workers' demand will be considered within fifteen days. This also shows that the workers were in their employ.

32. The employer Mahesh Transport Company have examined witness Shri Ramniwas Pannalal who has stated that Dhondiba was their contractor. However the evidence of this witness is not worth any reliance. It has been established that Dhondiba and the other workers were carrying on the work of loading the cement of Krishna Commercial and the clinkers of Mahesh Transport Co. It is also clear from the evidence of Dhondiba that the payments for the work of cement as well as clinkers are made by witness Ramniwas. But when this witness was asked whether the workers who load the clinkers work for Krishna Commercial in loading cement, this witness has given a reply that he did not know. When he was asked whether the labourers who load the clinkers work for Mahesh Transport the witness has stated that he did not know. He has further stated that he did not know if Dhondiba Shinde did the work of cement for Krishna Commercial. He had stated he did not know the number of the workers. He did not know the person by name Munnalalji who is the partner of the Krishna Commercial Co. When he was asked whether he got the dock permits issued for the workmen working in the dock he stated that he did not know. When he was asked about the stoppage of loading work in April, on account of strike, he stated that he did not know. When he was shown his company's letter W10 dated 17th April, 1967 he said that he did not know anything about it. To every important question he has given a reply that he did not know and thus he cannot be believed and his evidence does not deserve any consideration and by the oral and documentary evidence produced by the union it has been clearly established that the workers doing the work of loading the clinkers are the employees of Mahesh Transport Co.

33. Both employers have contended that they were not listed employers and did not carry on any business within the definition of a listed employer and were not within the scope of above reference. It was further contended that the coolies doing the loading work did not satisfy the requirements of the definition of a dock worker under the dock workers (Regulation of Employment) Act of 1948 and they were not covered by recommendations of the Wage Board and were not entitled to get the benefits recommended.

34. It is true that as per recommendations of the wage board the employees engaged by listed employers are made eligible for getting the benefits under the recommendations. However, the union has not claimed the benefits of recommendations on the ground that the workers are employees of the listed employers. The case of the union is that the labourers working with the two companies are dock workers and hence they are entitled to get the benefits of the said recommendations. Hence the contentions of the employers that they are not listed employers is not relevant.

35. The union has contended that the coolies working with the two companies are dock workers. This term has been defined in section 2 of the Dock Workers (Regulation of Employment) Act of 1948. It is as follows:—

"Dock worker means a person employed or to be employed in, or in the vicinity of any port on work in connection with the loading unloading movement or storage of cargoes, or work in connection with the preparation of ships or other vessels for the receipts or discharge of cargoes or leaving port."

36. It is not in dispute that the labourers in question are required to do the work of loading the cement and clinkers in the trucks on the wharf. The cement and clinkers are imported in ships and unloaded on the wharf and it cannot be seriously disputed that the coolies are employed on work in connection with the loading and movement of cargo and clearly the labourers in question are dock workers and will be covered by the recommendations of the central wage board and are eligible to get the benefits of the said recommendations.

37. It was further argued that recommendations made by the wage board were not binding on employers and no award can be passed against them. I do not think that there is any substance in this contention. It is not in dispute that the recommendations of the wage board have not any statutory force and they are not binding on any body. However, there is no question of the recommendations being binding on the employers. We are not concerned with the binding nature or otherwise of the recommendations. In fact they are only recommendations. The wage board has considered the various circumstances in the industry and the financial conditions of the workers, the cost of living index and thought it proper to make the recommendations. Government has accepted these recommendations and have requested the concerned employers to implement the recommendations. The Employers in question have not implemented and as the workers have raised the dispute, this reference has been made and it is to be decided whether the action of the employers in not implementing the recommendations was justified. Had the recommendations of the board been binding under any law or order the workers would not have been required to raise a dispute before the tribunal. In that case they would have approached the labour court under section 33(C)(1) or (2) of the Industrial Disputes Act in recovering the amount and thus the contentions that the recommendations are not binding does not deserve any consideration.

38. The employers M/s. Mahesh Transport Co. had by their written statement contended that their firm came into existence on 3rd September, 1965. It was not in existence when the wage board was established and hence the reference against them was not maintainable. They have produced their partnership deed which is at Ex. %. It shows that the firm commenced its business from 1st August, 1965 and the partnership deed was executed subsequently. It cannot be disputed that the company cannot be made liable to pay anything by way of interim relief or additional dearness allowance prior to the date of its commencement. However the fact that the company came into existence after the constitution of the board has no relevance while considering this contention about the reference. The central wage board for port and dock workers was constituted by Government of India by resolution dated 13th November, 1964 and the wage board submitted its report unanimously recommending interim relief and additional dearness allowances to the dock workers. These recommendations were accepted by the government by resolution dated 27th April, 1965. At that time the workers were in the employ of Krishna Commercial Co. and that the company will be responsible for implementing the recommendations for that period. The workers were in the continuous employ of Krishna Commercial upto 1st August 1965 and from that time a part of their business namely clinkers was taken over from them by M/s. Mahesh Transport on the same terms and conditions clearly. The workers came under the employ of Mahesh Transport Co. from that day. And thereafter that company would be also responsible for implementing the recommendations along with Krishna Commercial Co.

39. It is not in dispute that at the time of making the reference there was a dispute existing between both the companies and the workers and it was in connection with the implementation of the recommendations of the board. Along with the reference order government has also forwarded this tribunal the copy of the failure report sent by regional labour commissioner. This report clearly shows how the transport and dock workers union had made a demand for the implementation of recommendations about interim relief and dearness allowance by their letter dated 11th September, 1965 and the steps taken by conciliation officer for negotiations with the two companies. Reference order is dated 29th November, 1965 and it is clear that there was a dispute existing between the workers on one hand and both Krishna Commercial and Mahesh Transport on the other. It was an industrial dispute and the reference will be maintainable.

40. The fact that Mahesh Transport Co. had come into existence some time in the month of August, 1965 will not be material for deciding the question about the maintainability of the reference. I have found that this company has taken over from Krishna Commercial the work of loading clinkers along with the workmen and the Mahesh Transport Co. will also be responsible for implementing the recommendations along with the co-employer company.

41. As regards the financial capacity of the two companies there is absolutely no evidence. They have not produced even a single document to show that they have no capacity to pay the interim relief and the additional dearness allowance. Even the witnesses the partner Shri Munnalal Seth and Ramniwas Pannalal have not stated in their deposition that the firms were unable to bear the increase in the emoluments and there is nothing to show that the companies have no capacity to pay the benefits recommended.

42. Moreover the question of the capacity of the individual unit in a reference of the nature cannot be given much importance. The employers were requested by government to implement the recommendations of the wage board by paying the workers the interim relief and the additional dearness allowance. These recommendations were made by the Wage Board for the port and dock workers which was appointed by the government in 1964. The

Wage Board consisted of the representatives of the employers and employees and two independent experts and a chairman. The Wage Board had given opportunity to all the sections of the industry to be heard. The reports show that they studied the capacity of the industry to pay on the industry-cum-region basis after taking a fair-cross section of the industry as recommended by the Fair Wages Committee and thereafter made recommendations. It is significant that the recommendations are unanimous and it can be said that the recommendations made are the result of an indirect agreement on the national level between the employers and the employees and the question of capacity of a particular unit to pay the workers the interim relief and the additional dearness allowances under such circumstances cannot be so much relevant while deciding the reference. And I do not think that employers will be justified in not implementing the recommendations on the ground of capacity.

43. The learned counsel for the employers has invited my attention to the statement of payments made to the workers and has contended that the work done by the labourers does not involve any skill. Each of them earn about Rs. 9/- per shift, i.e. Rs. 265/- per month and they are not entitled to any further relief. I do not think that there is evidence to show that the workers are earning Rs. 265/- per month. The statement of the payment will not be sufficient to show that the workers earned the amount working for the normal shifts as alleged. It is a record showing only the date of payment, the name of the steamer and the amount paid. It does not show that number of shifts in which the coolies worked. The dates of the ships may be overlapping and it is not a record which would conclusively establish that the workers earned Rs. 265 per month. It is not in dispute that the workers' right to fair wages has been recognised and a wage policy which aims at a structure raising real wages is being evolved. The terms of reference of the Wage Board will show that the board has to evolve a wage structure based on the principles of fair wages as set forth by the committee on fair wages.

44. The employers have contended that the two companies are separate entities and the joint reference is illegal. It is further contended that the both the companies were not financially strong and they have not the capacity to pay the interim relief and dearness allowances to the workers and they were justified in not implementing the recommendations of the Wage Board. I do not think that contentions about the illegality of the proceedings on the ground of joint reference deserves any consideration. The industrial disputes act does not lay down any strict procedure as provided in the civil procedure code for the conduct of suits and there is no question of any illegality. The union has contended that few days before the reference the employers M/s. Krishna Commercial Co. had formed a new company with a view to deprive the employees of the benefits of the recommendations and the new company had taken over the business of Krishna Commercial Co. I have already discussed the evidence and have found that the contentions that Krishna Commercial Co. had ceased their work from the month of August 1965 was not true. But they had only handed over their business of loading the clinkers imported and the new company has taken over only the clinkers work and the original company was still carrying on the business of loading cement bags. Thus the workers came under the employ of both these companies. The workers claim the benefit from both the companies and as the dispute is against both the companies there is no substance in the contention that the joint reference was illegal. It has come in evidence that both the companies had paid to these very workers bonus for the year 1966 and 1967. It has also come in evidence that payment in respect of both companies are made by witness Ramniwas Pannalal and both companies will jointly pay the benefits to the workers.

45. The reference has been further challenged on the contention that the dispute between the workers of the Krishna Commercial Co. was pending for adjudication in reference No. CGIT-4 of 1964. It was in connection with the increase in wages. The Central Government Industrial Tribunal has passed an award in that reference. The workers have not terminated this award, and hence the reference is bad in law. The employers have relied upon the award which is at Ex. W9. It is published in Government Gazette dated 20th December, 1964. It is true that the employers Krishna Commercial Co. and their workmen were parties to this reference. However the demand of the workmen in that reference was in respect of enhancement of wages and payment of attendant allowances, minimum wages and bonus etc. This award is dated 29th December, 1964. The Wage Board was constituted only a month before this award and at the time of the award there were no recommendations of the Wage Board. The board submitted its report and made the recommendations which were accepted by government in the month of April 1965. The recommendations were for the payment of dearness allowances and interim relief to the workers and government had requested the concerned employers to implement the recommendations which gave rise to new circumstances. Almost different considerations have been introduced by these recommendations in the relationship between the workers and the employers and the demand for interim relief and dearness allowance

has been made by the workers because of the request of government to the employers for implementing the recommendations. Considering the terms of the present reference, in my opinion, the subject matter of the present reference is quite different from the subject matter of the award which has nothing to do with the implementation of the Wage Board recommendations and hence there is no scope for the technical contentions about the reference being bad on account of non-termination of the award.

46. Moreover if we consider the decision in the previous reference, I do not think that it will come in the way of the present reference. The award which is at Ex. W9 shows that the dispute was between the three employers and their workmen. Demands were made by the workmen to the employers of 1. M/s. Kanjee Jadavjee Co. 2. M/s. Navalchand A. Metha & Bros. and 3. M/s. Krishna Commercial Co. for enhancement of wages. It appears from the facts stated in the award that the then current rate paid by the M/s. Kanjee Jadavjee Co. to their workmen for loading the cement bags was 45 ps. for loading 20 bags of cement i.e. per ton. The tribunal after considering the evidence and the circumstances has increased its rate by 5 ps. per ton. It is observed in paragraph 41 of the award:

"Considering all the facts and circumstances of the case I think an increase of 5 paise per ton in the existing rate of Rs. 0.45 paise per ton against M/s. Kanjee Jadavji will meet the ends of justice."

However regarding the workmen of Krishna Commercial Co. the tribunal in para 58 has rejected the demand on the supposition that Krishna Commercial was paying their workmen at the rate of Rs. 0.65 ps. for loading cement. The tribunal has observed in Para 58:

"As I have stated earlier, this company pays the highest rate to its workmen viz. 65 paise per ton. There can be no question of increasing this rate as the highest I have awarded by this award is 50 paise per ton in the case of M/s. Kanjee Jadavjee Co. This demand is therefore rejected."

Thus it appears that the tribunal was given the impression that Krishna Commercial was paying at the rate of Rs. 0.65 paise per ton for loading the cement bags. However the case before me is quite different. The companies' witness Mannalal has himself stated that—

"We had agreed to pay Dhondiba Shinde 45 paise for loading the cement and 65 paise for clinkers per ton."

He has further stated

"I have personally seen the payment is made at the rate of 45 paise per ton for cement and 65 paise for clinkers."

47. It has come in evidence that the cement is imported in bags while clinkers are brought in bulk. After the goods are unloaded on the wharf the workers have to load them in the trucks. It cannot be disputed that it is easy to load the bags while it requires more energy for loading clinkers which are heaped in bulk. The rate of Ps. 67 is for loading the clinkers and not for loading the cement. Had this matter been made clear before the tribunal even the workmen of Krishna Commercial Co. would have been granted increment in their wages. And I do not find any substance in the argument advanced before me that Krishna Commercial's workmen were getting the highest wages. In my opinion the award will not come in the way of the legality of the present reference. While making the reference Govt. has only to see whether there exists in fact a dispute between the workers and the management and whether it pertains to any of the matters referred to in the schedule. And the present reference will not be affected by the award in reference CGIT-4 of 1964.

48. I have held that the labourers working with the two companies are their employees. It is clear from the evidence that all workmen were formerly doing the work of cement and clinkers on behalf of the Krishna Commercial Co. upto 1st August, 1965. Thereafter the work of loading clinkers has been taken over by Mahesh Transport Co. and the workers are doing that work on behalf of that company while they are loading cement bags on behalf of Krishna Commercial. I have further held that the workers are dock workers as defined by Dock Workers Regulation of Employment Act of 1948 and are entitled to get the benefits of the recommendations made by the wage board. There are no circumstances supporting the case of the employers and the action of the employers in not implementing the recommendations is not justified.

49. The second part of the reference requires this tribunal to decide the question as to what relief the workmen are entitled and from what date? As the workmen are dock workers, they will be entitled to get the interim relief and the dearness allowance and the

increase in the dearness allowance as recommended by the wage board. The recommendations of the board are as follows:—

"All categories of employees mentioned in clause I who are getting dearness allowance at the rates applicable to government employees should continue to be paid dearness allowance on the pattern of the dearness allowance of the Central Government employees. As and when the government raised the dearness allowance rates for its employees, these workmen should also be paid dearness allowance at such enhanced rates. This practice should be followed till the final recommendations of the board come into effect."

As regards the workers who are not getting fixed pay the board has recommended as follows:—

III(a) "Employees who are being paid consolidated wages or who are piece-rated workers, should be paid a minimum dearness allowance of Rs. 7.50 per month from 1st October, 1964. However wage differentials, if any between higher and lower paid workers in the same channel of promotion should be taken into account for calculating the amount of dearness allowance payable under clause (A).

(b) Employees mentioned in proviso (i) and (ii) above should be paid increase in dearness allowance as and when the Central Government grant increases in the dearness allowance rates applicable to its employees on the same principle in proviso (i).

IV. Besides the payments mentioned above, all categories of employees mentioned in clause I should be paid an interim relief of Rs. 7.80 per month with effect from 1st February, 1965.

50. It is not in dispute that the workers in question are not getting any fixed pay but they are piece-rated workers and would be entitled to be paid the minimum dearness allowance and increases in dearness allowance and interim relief. The union has in its written statement mentioned the interim relief and the dearness allowances and the increase upto 1st December, 1965. It has been shown that subsequently Central Government has raised the dearness allowance rates and have produced the statement Ex. W. 15. The employers have not disputed the rates of the increases and thus the workmen will be entitled to receive from the employers the following reliefs:—

(A) Interim relief of Rs. 7.80 per month or 30 paise per shift with effect from 1st February, 1965.

1. Dearness allowance from 1st October, 1964 at minimum rate of Rs. 7.50 per month or 29 paise per shift.
2. Further increase in dearness allowance of Rs. 5/- per month or 19 paise per shift with effect from 1st March, 1965.
3. Further increase of Rs. 5/- per month or 19 ps. per shift with effect from 1st December, 1965.
4. Further increase of Rs. 3 per month or 12 paise per shift with effect from 1st December, 1965.
5. Further increase of Rs. 6/- per month or 24 paise per shift with effect from 1st August, 1966.
6. Further increase of Rs. 6/- per month or 24 paise per shift with effect from 1st February, 1966.
7. Further increase of Rs. 6/- per month or 24 paise per shift with effect from 1st June, 1967.
8. Further increase of Rs. 6/- per month or 24 paise per shift with effect from 1st November, 1967.

51. I have already observed that in the beginning, the workers were in the exclusive employ of Messrs. Krishna Commercial Co., upto 1st August, 1965 and thereafter they came under the employ of both the companies and hence Messrs. Krishna Commercial Co. will pay the workmen interim relief and dearness allowance upto 1st August, 1965 and thereafter both the companies will jointly pay the workers the interim relief and dearness allowance and increases from 1st August, 1965. Hence my award accordingly. The arrears due to the workmen under this award will be paid to them within a month after its publication in the official gazette.

52. Considering the earnings in these proceedings I think it proper to direct that the employers will pay the cost of Rs. 300/- to the union.

(Sd.) A. T. ZAMBRE,

Presiding Officer,

Central Government Industrial Tribunal,
Bombay.

[No. 28/108/65-LRIV.]

C. RAMDAS, Under Secy.

(Department of Labour and Employment)

New Delhi, the 7th August 1968

S.O. 3156.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of Shri Salim M. Merchant, Arbitrator, in the industrial dispute between the employers in relation to the Singareni Collieries Company Limited, Kothagudum Collieries, Andhra Pradesh and their workmen, which was received by the Central Government on the 2nd August, 1968.

BEFORE SHRI SALIM M. MERCHANT, ARBITRATOR

SINGARENI ARBITRATION REFERENCE NO. 1 OF 1967

The Management of Singareni Collieries Co. Limited,

Kothagudum Collieries, Andhra Pradesh

AND

**Their Workmen represented by the Andhra Pradesh Colliery Mazdoor Sangh,
Kothagudum Collieries.**

APPEARANCES:

Shri Srinivasanmurthi, Advocate with Shri M. V. Ramakrishna Rao for the Management of the Singareni Collieries Co. Ltd., Kothagudum.

Shri A. Laxman Rao, Advocate, with Shri S. Narayan Reddy, General Secretary, A.P. Colliery Mazdoor Sangh (I.N.T.U.C.).

Shri I. Surya Rao for the Singareni Collieries Workers' Union, Kothagudum.

INDUSTRY: Coal.

STATE: Andhra Pradesh.

Dated, Bombay this 30th day of July, 1968

AWARD

By an Arbitration Agreement dated 20/23rd January 1967, under Section 10A of the Industrial Disputes Act, 1947, the Singareni Collieries Co. Limited, Kothagudum, Andhra Pradesh (hereinafter referred to as "the Company"), and the Andhra Pradesh Colliery Mazdoor Sangh (INTUC), (hereinafter referred to as the Sangh), the parties abovenamed, referred the industrial dispute between them in respect of the following specific matter to me as Arbitrator, which agreement was published by the Government of India. Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) in pursuance of the provisions of Sub-Section (3) of Section 10A of the Industrial Disputes Act, 1947 (XIV of 1947), by Order No. 8/133/66-LR. II dated 15th March 1967.

Specific Matter in dispute :

"Having regard to the Rules of the Company in force and practices in respect of other departments of the Company, whether the demand of the Union for payment of play-day allowance, i.e. half muster extra for work done on Sundays to the employees of the Medical and Sanitary Departments of Kothagudum of the Singareni Collieries Company Limited is justified?"

Time for submission of this Award was extended by joint applications of the parties till 30th July 1968.

2. This demand is limited for the monthly-rated employees of the Medical and Sanitary Departments of the Kothagudum Collieries who, according to the Union, number about 300 workmen and, according to the Management, only about 176. The demand is for

payment of half muster from 1960 when it was first made and the Company refused to grant it.

3. The Sangh in its Written Statement of Claim dated 30th April 1967; has stated that these employees have been working on Sundays (Play-days) as required, but are not paid the extra wages to which they are entitled, under the unreasonable and unfair contention that Sunday is not the Play day for the staff of the Medical and Sanitary Departments and that they are allowed compensatory off days; that denying the benefit of half muster extra wages to the Medical and Sanitary Departments of the Kothagudum Collieries, while allowing to the other workmen, amounts to discriminatory treatment. The Union has submitted that the Company has merely been arbitrarily asserting that Sunday is not the Play-off day for the Staff of the Medical and Sanitary Departments and this stand was also taken by it before the Conciliation Officer, but the Company was not able to establish this assertion, though it applied for and was given time so to do and which consequently resulted in the conciliation proceedings ending in failure. The Sangh in its Written Statement has submitted that in view of the contentions stated above, and those which would be advanced at the hearing, the demand should be awarded with effect from the date in 1960 when the Sangh had made the demand.

4. The Singareni Collieries Workers' Union, Kothagudum, in Written Statement filed at the hearing on 30th March 1968, has pleaded that play day allowance at the rate of half muster extra is being granted in addition to normal wages to all workmen who work on play days. It has stated that in certain departments, viz., Workshops, Main-stores, Mines-Engineering, Hospital and Sanitary Departments, five hours work is taken on Play days but the workmen are paid full wages; that this payment was being made in those departments irrespective of whether the employees were daily or monthly-rated as a practice or custom since 1948; that this was also being done after the Jadhav Committee in its report made in 1949 recommended payment of $1\frac{1}{2}$ days muster for 8 hours work and one muster for 5 hours work on Sundays and Play days. This Union has complained that though certain categories of monthly paid staff of Hospitals like Nurses, Ayahs, Ward-boys and others are working 8 hours in shifts they are not paid $1\frac{1}{2}$ muster extra like their co-workers. This was also denied to the Clerical staff, but under an agreement dated 1-4-65 they are being paid $1\frac{1}{2}$ muster extra like the others. The Union has stated that at first the Management refused to give this benefit of $1\frac{1}{2}$ muster extra to clerks drawing basic pay of Rs. 68—100, but later agreed to pay them the same with effect from 1-4-65. It has stated that under Para 343 of the Labour Appellate Tribunal's decision all the monthly-rated workmen are entitled to $1\frac{1}{2}$ times the extra wages for working on Play-days.

5. The Company in its written statement dated 14-6-1967 has taken the plea that this demand of the Sangh, which was made for the first time in January 1966, is barred on principles of estoppel and *resjudicata* since the Management is following a procedure which has got a long standing practice apart from its being just. It has also stated that the claim is belated inasmuch as the Sangh for the first time raised the dispute in January 1966, whilst the practice had been in existence since 1949.

6. I may at the very outset deal with this contention. There can be no bar on grounds of *resjudicata* because there is no decision, let alone a judicial one, on the points at issue in this dispute. There can be no estoppel merely because as alleged by the Company a certain practice has been in force as alleged since 1949. An industrial dispute arises when a demand is made by the workmen for a certain change in the existing terms and conditions of service and the same is refused by the employer or when workmen claim that they are entitled to a certain payment—in this case of payment of $1\frac{1}{2}$ muster extra for working on the play day—and that claim is denied by the Employers. The mere fact that an extra payment is demanded, which, according to the Company, the workmen have not been entitled to since 1949 cannot debar such a claim either on the plea of estoppel or on the ground that the demand is stale and belated. If that were so, the workmen would never be able to get long standing grievances remedied or long standing wrong practices corrected.

7. On the merits, the Company has stated that the workmen of the Company working in the Medical and Sanitary Departments are not eligible for half muster extra payment for work they perform on Sundays; that the claim for $1\frac{1}{2}$ muster in addition to the rest day in the subsequent week, is not justified under any law. It has submitted that the practice of granting a half muster extra for work on play days was introduced in 1949 in respect of some categories of workmen specified in the Company's Circular No. 2107 dated 5th December, 1949 (copy of which it has annexed to its Written statement). It has submitted that in 1961 the Singareni Colliery Workers' Union took up the cases of some workmen not covered by these Circulars and it was discussed at Conciliation proceedings held on 7th December, 1961 and the Government, after considering the failure report submitted by the Conciliation Officer, informed the parties by its

letter dated 5th January, 1962, that it was not a fit dispute for reference to adjudication (Annexure II to Company's Written Statement). The Company has submitted that as the staff of the Medical and Sanitary Departments were not covered by the Circular dated 5th December, 1949, they were not eligible to the half muster extra, and were never paid the same. The Company has denied that Sunday is a play day for the Workmen of the Hospital and Sanitary Departments. The Company in para 6 of its Written Statement has denied the Union's Statement that these workmen were allowed to have Compensatory rest days. It has stated in Para 6 of its Written Statement that the present position is as follows:

The workmen of the Medical and Sanitary Departments are given staggered weekly days of rest and there is no particular days of rest to any employee in this Department. There is nothing like Sunday being the off-day. Their rest days are rotated and they are informed about the same by the Company in advance. It cannot be said that they were given the compensatory day of rests for the work on Sundays. The weekly day of rest is not the same for all the workmen in the Medical and Sanitary Department."

The Company has urged that the Sanitary and Medical Departments are essential services and as such they are kept open on all days in the week and that the rest days which the workmen are availing themselves of are not the compensatory days of rest for work they have done on Sundays, but they are their actual rest days in the week. Being essential service their rest days have to be staggered. The Company has denied that there is any discrimination and has stated that the grant of half muster extra for the work done on play day is governed by the General Manager's Circular and not by any provision of Law; that the Management has been allowing this concession to these categories of workers who are governed by the said Circular and for whom there is a fixed weekly off. According to the Company this does not amount to any discrimination between one set of workmen and another.

8. In para 9 of its written statement, the Management has stated that "the Management will produce sufficient evidence before the Hon'ble Arbitrator and Sunday is not a play day for the Medical and Sanitary Departments and that the weekly days of rest of the Workmen are staggered rest days."

9. The Company has further submitted that the provisions of the Mines Act do not apply to the Hospital and Sanitary Staff and it has for this relied upon a certain clarification it has received from the Chief Labour Commissioner, New Delhi and the Chief Inspector of Mines, Dhanbad.

10. The Company has further stated in Para 9 of its written statement that under a long standing practice the daily-rated workmen of the main hospital are given their weekly off without Pay on Sundays and those who are asked to work on such of their weekly holidays are paid a half muster extra. But this does not apply to the Monthly-rated staff of the Health and Sanitary Department who are not governed by the General Manager's Circular dated 5th December, 1949 to whom this benefit was not extended all these years. The Company has reiterated that the monthly rated workmen are not entitled to the half-muster extra because they are not entitled to it under the General Manager's Circular No. 2107 dated 5th December, 1949.

11. The Management has denied that the conciliation proceedings failed because of discriminatory attitude of the Management.

12. The Management in Para 13 of its Written Statement has submitted that the existing practice has not been challenged by any Union, including the Sangh functioning in the Collieries of the Company, though one of them has been functioning for the last about 20 years. It has denied that it has violated any rules of natural justice or has been guilty of unfair labour practice. It has denied that the monthly-rated workmen of the Medical and Sanitary Department have any right to claim extra wages for work on Sundays which are normal working days for the staff of those departments.

13. At the hearing neither party led oral evidence. The Management has relied upon the annexures to its written statement which are copies of the Circular No. Dy. 1760 dated 8th October, 1949 on the subject of over-time allowance to monthly paid staff (Ex. E. 2) and the List A which mentions the categories in the various Departments considered to be supervisory staff and therefore not entitled to the payment of overtime allowance and List B which mentions the categories which are entitled to payment of overtime (Ex. E.3). The Company has also annexed to its written statement copy of its Circular No. D.Y. No. 2107 dated 5th December, 1949 of the General Manager which states that the lists A and B to the earlier Circular No. Dy. 1760 were to be treated as cancelled and that the list attached to this Circular (dated 5th December, 1949) indicates categories

who may be paid overtime from 1st January, 1949 and that a further Circular having reference to other categories would be sent out as soon as the same were confirmed by the Secretaries (Ex. E. 1). In this Circular there is no mention or reference to the Medical and Sanitary Departments. The Company has also filed copy of the Memorandum of Settlement reached during conciliation proceedings held between 11th and 14th March, 1968 (Ex. E. 4), to which I shall presently refer.

14. The Sangh has relied upon only two documents. The first is office Order No. H. D. 232/14D dated 25th April, 1961 from the Health Officer (Ex. W1) which states that with effect from 30th April, 1961 no person (monthly paid or daily paid) in the Sanitary Department will be allowed to work for more than 6 days in the week. Sundays will therefore be days of full holiday for all employees of this Department except a few whose work will be urgently required on Sunday. These people will, however, be given off on any one of the succeeding week days in such a manner as the Sanitary Inspector in charge thinks desirable. The next document relied upon by the Sangh is copy of letter No. P. 8/1079/1241 dated 25th March, 1960 from the General Manager, Singareni Collieries Co. Ltd., Kothagudem addressed to the Labour Inspector (Central) Kothagudem in (Ex. W. 2). Emphasis is laid by the Union in the third para of the letter in which reference was made by the General Manager of the Company to Clause 11 of the Government Notification No. G.S.R. 660, dated 29th July, 1958, exempting the staff employed in hospitals and dispensaries from the operation of certain provisions of the Mines Act. Singareni Company had therefore in that letter contended that the hospital and dispensaries cannot be compared with the other staff and workers employed in the Mines. The Union has contended that when this letter was written the Government had withdrawn the earlier exemption from the provisions of the Mines Act, but I shall refer to this a little later.

15. Now, under the terms of the reference this demand has to be decided having regard to the Rules of the Company in force and the practices in respect of the other departments of the Company. Thus, what has to be considered is not only the rules of the Company in force, but also the practice in respect of the other departments of the Company.

16. Now, the rules of the Company are those embodied in the Circulars Ex.E.1, E.2, and E.3 to which I have referred earlier. The Company's contention is that under the Rules the monthly paid staff of the Medical and Dispensary departments of the Kothagudem Collieries are not entitled to a half muster off. Now, under Circular No. Dy. 1760 dated 8th October, 1949 (Ex. E.2) overtime was payable to "all surface monthly paid staff excluding office and supervisory staff", and List B, which showed the categories entitled to payment of Overtime included the 4 categories of (1) Nursing Orderlies (2) Tailor (3) Ayahs and (4) Ward Boys, as being entitled to payment of Overtime (Exhibits E.2 and E.3). However, by Circular No. Dy. 2107 dated 5th December, 1949 the List 'A' and 'B' were cancelled and the List under that Circular (Ex. E.1) indicated the categories who may be paid overtime as from 1st January, 1949. This Circular of 5th December, 1949 stated that with reference to other categories, a further Circular would be sent out as soon as this was confirmed by the Secretaries. In the list of the categories entitled to payment of overtime the Medical and Sanitary Department categories, which were included in List 'B' of the earlier circular dated 8th October, 1949 (Ex. E. 2), had been excluded. It was not stated at the hearing whether any other circular was issued in respect of other categories, as was promised by the Circular of 5th December, 1949 (Ex. E.1).

17. The contention of the Sangh is that though there is a practice of paying half muster extra to workmen in other departments, the Company was unjustifiably refusing to pay it to the monthly-rated Medical and Sanitary Department staff. It has urged that Sunday is the uniform off-day in the Sanitary and Medical Departments. Those asked to work on Sundays are granted a compensatory off day and paid nothing extra. It has stated that the workmen of the Medical and Sanitary Department of the Power House and some other Departments were exempted from certain operations of the Mines Act and under Notification No. G.S.R./660 dated 29th July, 1968 of the Ministry of Labour, Government of India, the Medical and Sanitary Department employees were declared essential Departments and they were exempted from certain provisions of the Mines Act. Thereupon, representation was made by the Workmen to the Government of India relating the hardships that were being caused and the Central Government, therefore, withdrew the portion of the Notification granting exemption. This Notification it is admitted by the Company, was issued in 1960 and thereafter the Company started paying overtime from August 1960. The Union has stated, and this is not denied by the Management, that till about the end of 1961 or the beginning of 1962, the Company was employing some workmen in the Medical and Sanitary Departments in two shifts of 12 hours each. But overtime to those who worked for 12 hours was not paid till August, 1960, but upon the Central Government's Notification of 11th August, 1960, the Company paid for overtime worked with effect from the date of the Notification. The Company, however, hereafter stopped 12 hours

shift working and started employing all workmen in the Medical and Sanitary Department in 8 hours shift. It was stated on behalf of the Management that in spite of the provisions of its Circular dated 5th December, 1949 (Ex. E. 1) referred to earlier under which the Medical and Sanitary Department monthly staff were not entitled to overtime payment, the Company had acted on the Government Notification of August 1960 and was paying overtime. It is, therefore, clear that the Company cannot any longer rely upon its Circulars dated 8th October, 1949 and 5th December, 1949 (Ex. E. 2 & 1) as constituting the existing rules on the question of payment of overtime for working on Sundays.

18. It is the contention of the Company that Sunday is not the uniform weekly day of the rest for the Medical and Sanitary Departments but the same is staggered. The Company in its written statement has stated that it would at the hearing establish on evidence that Sunday is not the weekly day of rest in the Medical and Dispensary Departments. But it has not done so and the Union's complaint is that even at the Conciliation proceedings though the Company had stated that it would establish this practice of their being staggered weekly off-days, it had there also failed to do so. The Company's case is that though admittedly in its various other Departments, Sunday is the uniform off day and the workmen are paid extra half muster for working on Sundays in those Departments. in the Medical and Sanitary Departments the weekly day of rest is by rotation. But the Company has not led any evidence to establish it except referring to the Circulars of 1949, which are Exhibits E. 1, E. 2 and E. 3 to which I have referred earlier. Those are old circulars and it is admitted that since then there have been many changes both statutory and by awards. I am, therefore, not prepared to accept that the Circulars of 1949 constitute the rules of the Company governing the payment of Overtime for work on Sundays.

19. Now, the system of a rotating weekly days of rest, which the Company says is in force in its Medical and Sanitary Departments, is also not a normal scheme of rotation of weekly off days, as according to the Company the workmen are given the choice of selecting the weekly day of rest they want. The Unions have denied this and stated that the day of rest in lieu of Sunday working is given not on the day the workman wants them but on days which the Management arbitrarily fixes. It is however, admitted that the existing system of rotation, which the Company says is in force results in the workman taking 2 or 3 days consequently as their weekly days of rest in one week resulting as admitted by the Company, in the workmen having to work continuously for more than 10 days without a weekly day of rest, which admittedly results in a breach of the Law, but which the Company has sought to plead is only a technical one. According to the Management all this happens because the Scheme of rotation as in force in the Medical and Dispensary Departments is one which the workmen have themselves voluntarily organized and is not one which the Company has imposed.

20. On this unsatisfactory state of arrangements it is difficult to hold that there is a regular scheme of Rotation of the weekly day of rest for the monthly-rated workmen in the Medical and Sanitary Departments as pleaded by the Company.

21. Shri Srinivasanmurthi, the learned Advocate for the Company on the basis of there being a system of rotation of the weekly day of rest has sought to rely upon the following decisions viz., L.A.T.'s decision in the case of the Bombay Port Trust Employees Union and the Bombay Port Trust (1956 II. LLJ. p. 197) and the decision of the Supreme Court in the case of the workmen of the Bombay Port Trust and the Trustees of the Port of Bombay, reported at 1961 II. LLJ. page 632, which are authorities for the proposition that where there is a system of staggered weekly day of rest, Sunday loses its sanctity and special significance and any special payment for work on Sundays would not be justified. But the Company having failed to establish a regular system of rotation of the weekly day of rest in the Medical and Sanitary Department, the above decisions cannot on the facts of this case, help it.

22. It does appear from the submissions of the parties that on Sundays the outdoor department is closed and no operations, except emergent operations are performed on Sundays and that even to-day all scavengers working in the Medical and Dispensary Departments on Sundays get a half-muster extra for working on Sundays. There is, however, no alternative weekly off day for them, because they are daily rated.

23. I am also not impressed by the Company's contention that the workmen of the Medical and Sanitary Departments will object if the present practice is changed. It has pleaded that this system has been in force for about 80 years and that the Management's accommodating spirit towards the workmen is recoiling on it. But, I am not impressed that a system which though 80 years' old results in breaches of the Law and is inconsistent with the practice in other departments, can be allowed to be continued.

24. The Management has next contended that this reference has become infructuous because of the conciliation settlement reached in March 1968—copy of which the Company has filed and which is on record as Ex. E.4. Now, that settlement was with respect to the withdrawal of play-day and certain other allowances, Item No. 1 under that settlement deals with Play day Allowance and Clause (ii) of Item No. 1 provides as follows:—

Item No. 1(ii).—The Monthly rated workers who are booked for work on play days will receive half of the daily wages (basic wage and dearness allowance) at the Minimum of the scales to which that category of workmen are eligible on 15th August, 1967. This benefit will be available to those monthly rated categories of workers who are already eligible to play day allowance."

Clause III provides for play day allowance at the above rate coming into force from 15th August, 1967 and Clause IV provides for this allowance being counted for the purposes of bonus only under the Coal Mines Bonus Scheme.

25. Now, Shri Srinivasanmurthi has argued that this settlement covers the dispute under reference and, therefore, the Award to be made by me in this reference as Arbitrator has become infructuous.

26. In my opinion this settlement does not cover the demand which is the subject matter of the industrial dispute which has been referred to me. This settlement under Clause (ii) of Item I applies only to "those monthly rated categories of workers who are already eligible to play day allowance." Now, with regard to the monthly paid workmen of the Medical and Dispensary Departments, the Company's contention is that they are not eligible to play day allowance." If the conciliation settlement were to cover this dispute, which had already been referred to me, as Arbitrator, prior to the date of the settlement Ex. E.4, why did it not so specify? No doubt, in the recital to this settlement (Ex. E.4) there is a reference to certain other pending disputes, but that is a general statement, and does not specify this dispute. As argued by the Unions that this settlement records with regard to Play-day allowance is the existing position and does not appear to have had in mind the claim under this reference of the monthly rated workmen of the Medical and Sanitary Sections, who according to the Company, are not entitled to any Play day allowance.

27. In the result, the decision in the case of Sirsilk Co. Ltd. and the A.P. Government (1963 I.L.L.J. page 647) sought to be relied upon by Shri Srinivasanmurthi, Advocate for the Company, cannot apply. That was a case where during the pendency of an industrial dispute before the Tribunal, the parties arrived at a conciliation settlement in respect of the demand which had been referred to adjudication and under Section 18(1) of the Industrial Disputes Act, 1947, forwarded the agreement to Government which published it as required by Section 18(3). The question that arose in that case was whether the Government could, under Section 17(1) of the Industrial Disputes Act, publish the Award of the Industrial Tribunal which Government was under an obligatory duty to publish within 30 days of its receipt from the Tribunal. It was held that since the parties had settled the very dispute which was referred for adjudication to the industrial Tribunal and the terms of settlement had been published by Government under Section 18(3) it was, though obligatory, not necessary for the Government to publish the Award of the Tribunal under Section 17(1). In this case the conciliation settlement is not in respect of this very particular dispute. On the facts and circumstances of the case I am inclined to the view that the authority cited by Shri Srinivasanmurthi cannot apply and this reference has not become infructuous as alleged by the Company.

28. I think there is also justification in the contention of the Unions that there should not be discrimination in the matter of payment of Play day allowance between the daily-rated and the monthly paid workmen. It is admitted that the daily-rated workmen in the Medical and Sanitary Departments are paid half muster extra for working on Sundays. But the Company has argued that they are not allowed a weekly day of rest with pay. But that may be because their daily pay looks after the wages for the weekly day of rest or some other justified circumstances. That would not in my opinion justify this discrimination.

29. I think there is also substance in the contention urged by Shri Surya Rao representing the Singareni Collieries Workers' Union, that it is not fair to deny the monthly paid employees of the Medical and Sanitary Departments the half muster for working on Play day i.e., Sunday, when daily-rated scavengers when they work for 7 days are paid 7½ days' muster. Even with regard to the monthly staff, it was pointed out that those of them e.g., Compounders who work for only 5 hours on a Sunday are paid full wages i.e., wages for 8 hours' work, whilst those who work for 8 hours are not paid anything extra.

30. In my opinion the observations made in Para 343 of its decision by the Special Bench of the Labour Appellate Tribunal in its decision dated 29th January 1967 also supports the workmen's claim.

31. In the result, I hold that having regard to the rules of the Company in force and practices in respect of other Departments of the Company, the demand of the Union for play day allowance i.e., half muster extra for work done on Sundays to the employees of the Medical and Sanitary Departments of Kothagudium Colliery of the Singareni Collieries Company Limited, is justified.

32. The next question is from which date this benefit should be granted. In my opinion it is not possible to grant this relief from the date claimed by the Unions. Considering all the facts and circumstances of the case, I think the proper date from which to grant this relief should be from 15th August 1967, and I direct that the dues of the workmen entitled to the same under this Award should be paid to them within one month from the date of the publication of this Award.

No order as to costs.

(Sd.) SALIM M. MERCHANT.
Arbitrator.
[No. 8/133/66-LR. II]

New Delhi, the 9th August 1968

S.O. 3157.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of Shri Salim M. Merchant, Arbitrator, in the industrial dispute between the employers in relation to the Singareni Collieries Co. Ltd., Kothagudium Collieries, Kothagudium Collieries, Andhra Pradesh and their workmen, which was received by the Central Government on the 2nd August, 1968.

BEFORE SHRI SALIM M. MERCHANT, ARBITRATOR

SINGARENI ARBITRATION REFERENCE NO. 2 OF 1967

The Management of Singareni Collieries Co. Limited, Kothagudium Collieries,

Andhra Pradesh

AND

Andhra Pradesh Collieries Mazdoor Sangh, Kothagudium Collieries, Andhra Pradesh.

APPEARANCES:—

For the Workmen.—Shri A. Laxman Rao, Advocate, with Shri S. Narayan Reddi, General Secretary, Andhra Pradesh Collieries Mazdoor Sangh (INTUC).

For the Management.—Shri K. Shrinivasamurti, Advocate, with Shri M. D. Ram Krishna Rao.

STATE:—Andhra Pradesh.

INDUSTRY:—Coal.

Bombay, dated this 30th day of July 1968

AWARD

1. By an arbitration agreement dated 3rd February, 1967, under Section 10A of the Industrial Disputes Act, 1947 (Act XIV of 1947), arrived at between the Management of the Singareni Collieries Company Limited (hereinafter referred to as "the Company") and the Andhra Pradesh Collieries Mazdoor Sangh (INTUC), the parties referred the industrial dispute between them, with regard to the following specific matter, to my arbitration:—

"Having regard to the nature of duties performed by Shri Ch. V. Rama Krishna, Checker, whether the demand for the Grade of Rs. 115—200 is justified? If so, to what relief is he entitled and to what date?"

The Arbitration Agreement was published by the Central Government in pursuance of the provisions of Sub-Section 3 of Section 10A of the Industrial Disputes Act, 1947 (Act XIV of 1947) by the Ministry of Labour and Employment and Rehabilitation (Department of Labour and Employment) Order No. 8/132/66-LR.II, dated 15th March, 1967.

2. After the reference was made, the Union filed its statement of Claim, dated 25th April, 1967, to which the Management filed its written statement in reply dated 14th day

of June, 1967, after which the dispute was heard by me at Hyderabad on 30th March and 22nd and 23rd June, 1968, when both parties led evidence, filed documents and addressed me in support of their respective contentions. The time for the submission of this Award was extended by joint applications of the parties till 31st July, 1968.

3. The Union in its statement of claim has stated that Shri Ch. V. Rama Krishna, who is a permanent employee of the Company, is working as a Checker in the Industrial Engineering Department of the Company (hereinafter for brevity's sake referred to as the I.E. Department) at Kothagudum Collieries to the satisfaction of his superiors. The Union has stated that Shri Ram Krishna, after undergoing training as Apprentice in the Workshops of the Company for five years from 1950 and after passing the Examination of Certificate Course in General Mechanics at Andhra Polytechnic, Kakinada, in 1959, appeared for the written test held by the Management in 1961 for the purposes of selecting a suitable candidate for the post of Checker in the I.E. Department in which he scored the highest marks and was immediately posted as a Checker; that in view of the nature of the duties which a Checker is required to perform, the appropriate monthly Grade of pay should be Rs. 115—200 in accordance with the directions of the Coal Award. But the Management instead of placing him in that grade, placed him in the lower grade of Rs. 48—100, which is the scale of pay for Junior Clerks and which was unjustified and against natural justice; that the Management in placing him in the lower grade did not give consideration to the duties performed by him, which called for much intelligence and skill with an element of special responsibility which entitled him to the grade of Rs. 115—200 under the provisions of the Coal Award as laid down in Paras 776 and 778. The Union has urged that the Management failed to take into account the fact that prior to the creation of the post of Checker in the I.E. Department, the job which Shri Rama Krishna is performing now was performed by a Standards Engineer which showed that the duties of a Checker involved a high degree of trust and responsibility, and is in no way identical with that of a Grade II Clerk; that the Management had also failed to take into consideration the fact that the Written test for which Shri Rama Krishna had appeared, was intended to select a suitable candidate being posted as a Checker and not for being appointed to the post of a Clerk, and that his designation and the nature of his work both clearly show that the request of Rama Krishna to be placed in the Grade of Rs. 115—200 made through the Grievance Procedure Machinery was turned down by the Management merely stating that he was given the appropriate grade of pay as a Checker; that the Management has thus failed to do justice to this workman. The Union has, therefore, claimed (i) for the Grade of Rs. 115—200 being awarded to Shri Rama Krishna with retrospective effect from the date of his posting as a Checker in the I.E. Department and (ii) for payment of costs to the Union.

4. The Management in its written statement in reply dated 14th June, 1967 has urged that as the present demand of the Union had been made for the first time in April 1966, it is barred by principles of estoppel and resjudicata, since the workman had consented to the terms and conditions of his employment as a Checker. The Company has pleaded that the claim of the workman is belated as the Union raised the dispute for the first time in April 1966, six years after Rama Krishna's promotion as a Checker. The Company has further submitted that the demand of the Union virtually amounts to interference in managerial functions. It has submitted that it is the inherent right of the Management to specify various grades in its industrial establishments and also to fix the workmen in those grades; that the demand of the Union, if granted, would amount to a revision of the grades. It has submitted that taking into consideration the nature of work done by Shri Rama Krishna and also the skill involved for the work of a Checker, when the Management fixes a particular grade of pay, it was not open to the Union to question the same. It has submitted that the written statement of claim amounted to asking for promotion in a higher grade, which is outside the scope of the reference.

5. On the merits, the Management has stated that Rama Krishna was originally appointed as an Apprentice Electrician in the Mines Engineering Department of the Company. During 1961 the I.E. Department requested the Management to accord their sanction for an additional clerk in the Grade of Rs. 48—3—54—4—70—EB—5—100 preferably with Trade or Technical Certificate for their Department to work on computation of performance and Bonus Percentage in the Workshop Personnel. Accordingly, the General Manager recommended the creation of a post of clerk with designation of a Checker in the said Grade of Rs. 48—100, which the Managing Director approved. In order to encourage local talent, it was suggested to test some of the Apprentices who had Trade or Technical Certificate in Machine Shop practice and if found suitable to promote the suitable candidate to the Clerical Grade. On the approval of the Management the Sr. Ibcn Consultant conducted a suitability test among nine Apprentices, including Rama Krishna and of these nine, Rama Krishna and one Veda Murthy were found suitable for the post of Checker, which carries the Clerical Grade of Rs. 48—100. On the recommendation of the Sr. Ibcn Consultant, Rama Krishna was promoted as Checker with an initial salary of Rs. 51 per month, which appointment he accepted, and reported

for duty on 7th July, 1961 in the I.E. Department. He was confirmed in the post with effect from 7th January, 1962 after he had completed 6 months' probationary period. He had accepted the terms offered to him for the post, and it is the Management's contention that there has been no change in his work from the date of his joining the I.E. Department till the date he made a representation for a higher grade. It has pleaded that as an Electrician, he was drawing daily rate of Category VII in the Mines' Engineering Department from which he was promoted to the post of a Checker. The Management has denied that Rama Krishna was entitled to the grade of Rs. 115—200 in view of the nature of duties performed by him and the directions contained in the Coal Award. It has stated that there is no direction in the Coal Award that a checker should be placed in the monthly grade of Rs. 115—200. It has stated that by claiming the grade of Rs. 115—200, he was jumping over on intermediary Clerical Grade of Rs. 70—158 for which Rama Krishna is not entitled to, having regard to the nature of his duties. The Management has denied that it has acted against the principles of natural justice. It has stated that the duties involved in the job of a Checker are nothing but clerical duties which did not involve any additional responsibilities. The Company has stated that the post of a Checker does not require any special or extraordinary skill to make Rama Krishna eligible for the Grade of Rs. 115—200, which is given only to supervisors. It has submitted that most of the data required for computation of performance is provided in a ready reckoner statement and Daily Performance Reports; that an ordinary Clerk with a little training which is required for the computation of performance and of the incentive plans would be able to perform this job satisfactorily. It has submitted that if Trade or Technical Certificate Holders had not been available, an ordinary Clerk would have been trained for this job. It has submitted that the job duties of the Checkers of the Production Reporting Unit of Workshop, who are also in the Grade of Rs. 48—100, are to go to individual workers and record the work done, quantity made, the details of all the Sections of the Workshop with sketches wherever necessary; that the job duties of a Checker in the I.E. Department is to compute the performance of only the **Machinshop** with the help of the reckoner statement; that Rama Krishna is computing performance of the workers working only on Lathe and Drilling Machines of the Machine Shop which are nothing but Clerical duties and he has, therefore, rightly been placed in the Grade of Rs. 48—100; it has denied that the work of a Checker calls for special skill, intelligence and responsibility as contended by the Union. The Management had denied that the work Rama Krishna is doing as a Checker was attended to by a Standards Engineer. It has explained that the Incentive Bonus Scheme to Machinshop Workers of Kothagudium Workshop was implemented during the first part of 1961, and that it is the usual practice of the I.E. Department to compute the performance of incentive Bonus Percentage Figures of each of the new plant for a few months in initial stages of implementation for determining the difficulties that might have to be faced and decide the line of the action to be taken to overcome these difficulties. It has further stated that when once this is settled the computation of performance work is handed over to the Clerical Staff of the Department; that this is applicable in the case of all Clerical staff in the Department—this case is no exception. The Management has explained that the Standards Engineers' duties are higher in as much as he conducts studies and prepares incentive schemes and exercises overall supervision over the staff of the Department. It has submitted that after the selection of Rama Krishna was made, the Management in consultation with the I.E. Department had given him the proper designation *viz.* Checker, which proves that the contention of the Union is not based on facts that even though a new designation had been given to him as a checker, he has not been performing any other duties except the duties of a Clerk Grade II. The Management has therefore prayed that it should be declared that Rama Krishna is not entitled to the Grade of Rs. 115—200 nor for any other Grade higher than Rs. 48—100, and that he is not entitled to any of the reliefs as prayed.

5A. At the hearing both parties led oral evidence and filed documents in support of their respective contentions as raised in their written statements. The Union examined Shri Ch. V. Ramakrishna (U.W. 1) and Shri P. Samanjah, a Clerk (U.W. 2) and the Company examined Shri G. Ranganayakulu, Standards Engineer (E.W. 1). I have had the benefit of detailed addresses by the learned Advocates representing both parties.

6. I am of the opinion that there is no substance in the Managements' contention that the claim made on behalf of Shri Ch. V. Ramakrishna is barred by principles of estoppel or *resjudicata*. Clearly, *resjudicata* cannot apply as there has been no earlier decision of any Tribunal, Labour Court or Arbitrator or any other competent authority, on the issues under claim. There is also no estoppel. Simply because Shri Ch. V. Ramakrishna accepted the appointment as Checker on the pay scales offered to him by the Company, it cannot debar him or the Union representing the workmen of the Kothagudium Colliery from raising an industrial dispute that the scale of pay of IInd Grade Clerk of Rs. 48—100, which is being paid to him, is not the proper scale of pay for him as a Checker in the I.E. Department, and that he is entitled to be placed on one of the higher scales of pay fixed by the Coal Award on the nature of the duties

performed by him. I am also not inclined to accept the plea of estoppel on the ground that the demand was made in 1966, some years after the appointment of Shri Ch. V. Ramakrishna as Checker was made in 1961 and he was confirmed in that post with effect from 7th January, 1962. On the peculiar facts and circumstances of the case and as the question involved in an assessment of the technical duties involved, which had not been raised before, this delay could well be overlooked.

7. I also do not accept the plea on behalf of the Management that this demand cannot be maintained as according to it, it is a claim for promotion. In my opinion, this is clearly not a claim for promotion to a higher post but a claim that considering the nature of the duties performed by Shri Ch. V. Ramakrishna, Checker, in the I.E. Department, the proper scale of pay applicable to him is the higher awarded grade of Rs. 115—200. Claim for promotion arises when there is a vacancy in a higher post and an employee in a lower post lays claim to it on the ground either of his seniority or on merits. Here the claim is that by the nature of the duties performed by Shri Ch. V. Ramakrishna the proper scale of pay to which he is entitled is the awarded pay scale of Rs. 115—200 and not Rs. 48—100, which is the awarded scale of pay for a Grade II Clerk. In other words, his claim is for a fitment into a higher grade of pay fixed by an Award, considering the nature of his duties and not one for promotion. In my opinion, the cases cited by Shri Sreenivasanmurthi, the learned Advocate for the Company, viz., award in the case of the Kymore Colliery of the Associated Cement Companies Limited (23 F.G.R.P. 488), 1964 I. LLJ. page 139 at page 144, 22 F.J.R. page 387, and 28 F.J.R. page 136 are clearly not applicable. I do not think that this is a case which on facts can fall into the Class of cases where it has been held that promotion, upgrading, creation of new posts and fixing of new grades are all managerial functions and a Tribunal will not interfere unless *mala fides* is proved on the part of the Employer. It must also be borne in mind that the Management has agreed to this industrial dispute over the demand under reference being arbitrated upon on the merits viz. on the basis of the duties performed by Shri Ch. V. Ramakrishna and having so agreed, the proper thing to do would be to decide the claim on the merits i.e. having regard to the duties performed by Shri Ch. V. Ramakrishna.

8. Now, the facts which emerge from the evidence, both oral and documentary on record, is that Shri Ch. V. Ramakrishna joined the service of the Company in 1950 as an apprentice in which capacity he worked for 5 years. For the first year he worked as apprentice in all departments and for the remaining four years as an apprentice in the Machine Shop. He worked as a Tradesman in the Mines Engineering Department upto 1961. He was Tradesman in the VIIth Category. He has passed the General Mechanic Certificate Course of Andhra Pradesh Polytechnic, Kakanada. When the post of Checker was to be filled nine candidates had applied for it, who were all persons with technical qualifications, working in various technical departments. A written test was taken. Shri Ch. V. Ramakrishna stood first and was selected to be promoted as a checker in the I.E. Department (Ex. E.I.). The staff employed in the I.E. Department calculate performance and bonus percentages and are designated as Clerks. Only Ramakrishna was designated as Checker. After a brief period of training he was entrusted with the work of calculation of performance and bonus percentages in respect of the work done by employees in the Workshop. The Clerical staff in the I.E. Department calculate the percentage in respect of the work of Coal Cutting, Shot Firing, etc. Ramakrishna has claimed, and I am satisfied that his claim is justified, that the calculation work done by him is more difficult and skilled and requires technical knowledge and is thus different from the work done by the other Clerks in the I.E. Department. He is supplied with the data by the Progress Unit in the Machine Shop as to the nature of the product made in the machine-shop, the metal used, the design of the product and the name of the workmen. From this data according to the claimant he has to fix the time required for loading the raw material on the machine on the basis of the nature of the material, the operation required to make the finished products as per the design and also the weight of the raw material. According to him he has to calculate the standard man minutes taking into consideration the above data and the nature of the machine on which the product is prepared. The Clerks in I.E. Department, on the other hand, are supplied with comparatively simple data such as the number of workers that work, the number of shifts in which they work and the number of tubs filled in the shift. In respect of the shot-firers, they are supplied the number of short-firers who had worked in the particular shift and the number of explosives used from which these clerks calculate the performance and the bonus percentage, on the basis of the man tonnes and man days. Ramakrishna's claim is that he can do the work that the other clerks can do, but that the other clerks cannot do the work he does, because they do not have the technical knowledge he has. In support of this, the Union examined Shri P. Sarmaiah (U.W. 2), a Clerk in the Venkataswami Khani Workshop, Dindurpur, in Kothagudem, who has stated that in this workshop there is a machine shop section and blacksmithy section and in the incentive report sent to the I.E. Department, he mentions the quantum of the work done by each worker such as the number of bolts made, the number of threads cut and the number of bushes made. He does not add anything more in his report. He stated

that he cannot calculate man minutes performance and bonus percentages, because he does not have the necessary technical knowledge to calculate how much time would be taken for cutting or making a bolt. He stated that he cannot do this as it requires the knowledge of engineering. He said that the other clerks also cannot calculate man minutes performance and bonus percentages. In cross-examination, he stated that he did not know any Clerk in the I.E. Department and he did not know whether Shri S. P. Sreeramulloo, a Clerk, and Shri Bepanna Rao, a Senior Clerk in the I.E. Department calculate the incentive bonus percentages on the basis of the data sent from the workshop.

9. Shri Ramakrishna in his evidence has stated that before he joined as a Checker in 1961 the Standards Engineer was doing the work which he is doing. This was one of the grounds on which his claim to the higher pay grade was sought to be supported. On this point, the Company's case as stated by its witness Shri G. Ranganayakulu, Standards Engineer (E.W. 1) is that when a new incentive plan is introduced (as was done for the machine shop at the end of 1960), the Standards Engineer himself does the calculation of the performance for the first few months, till the teething troubles are over, after which the calculation are gradually handed over to a member of the staff after an initial training. The point is that till Ramakrishna was trained to do the work of calculation of the performance of the machine shop, it was the Standard's Engineer who attended to the work, on the application of the incentive scheme for the machine shop and after the necessary training was given to Ramakrishna, he took over that work.

10. I may, however, pause here and state that the incentive bonus scheme was introduced in this Company in about 1953. It was extended to the Foundry, Log-saw and Blacksmithy Sections prior to 1960 and was extended to the Machine Shop in the end of 1960. It was when the incentive scheme was introduced for the Machine Shop that the need for a checker with technical knowledge arose and to which post Ramakrishna was promoted from his post of Electrician Grade VII because of his technical knowledge. It is worthy of note that none of the clerks in the I.E. Department who were doing the work of calculating the performance, was considered for appointment as Checker for the Machine Shop Section, evidently because none of them had any technical knowledge. The whole point in this case is that a person with technical knowledge was selected for the post and he was given a separate designation as Checker instead of Clerk, and yet he was placed in the Clerical Grade II of Rs. 48—100. The Company's witness Shri Ranganayakulu, the Standard Engineer (E.W. 1) had to admit in cross-examination that Ramakrishna was designated as Checker and not as Clerk because he was a Tradesman, when he joined the I.E. Department. He had further to admit that Ramakrishna's technical knowledge was an asset, though he added that it was not a necessary qualification for his appointment as a Checker. But when a Technical Man is selected and the other clerks in the I.E. Department doing the calculation of the performance of the other Departments of the workshop were not considered for the appointment to that post, the inference is irresistible that his technical training and knowledge was the main reason why Ramakrishna was selected and trained for the post and the sole point in the case is whether considering the duties performed by him, he is entitled to a higher scale of pay than that of a Grade II clerk.

11. I am satisfied on the evidence that the duties of a checker who calculates the performance of the workman in the machine shop of the workshop requires more skill and technical knowledge than either the other three Checkers in the workshop or the clerks in the I.E. Department who calculate the performance of the work done by the workmen of the other sections of the workshop i.e. in the Tub Assembly, Blacksmithy, Foundry and Log Saw Sections. From the answers in cross-examination of Company's witness E.W. 1, I am satisfied that the calculation of the performance in respect of coal cutters for calculations of performance for payment of bonus is comparatively simple (Ex. U-3). In their case it is purely a matter of mathematical calculations. It was sought to be made out by the Company that even in the case of the calculation of the incentive payment in respect of the machine shop, the work is purely a mathematical calculation based on ready reckoner Tables, which are on record. But it was admitted that in the case of the calculation of the performance in respect of machine shop, the Checker in the I.E. Department would be required to have a knowledge of the machines, the lathe, the shapping and the boring and other machines used in the workshop. It is admitted that the performance in respect of the other sections of the workshop is comparatively simple. The Company's witness (E.W. 1) had to admit in cross-examination that in respect of the workers in the mine the incentive bonus calculations is a purely mathematical calculation. In this connection, proformas of the Log-Saw Section (Ex. U. 4) and the Foundry Section (Ex. U. 5) were produced. It was admitted by the witness that the calculation of the incentive bonus in respect of the Log-Saw Section and the Foundry is purely a mathematical calculation requiring a mechanical application of the standards, coupled with an elementary knowledge and practice in the foundry—the latter having, in my opinion, been added more as a qualifying after thought.

12. It is also admitted that the sketch is an important item of data given in the performance report of the Machine Shop and that without a background of technical knowledge such as Ramakrishna had, the performance in the Machine Shop cannot be properly calculated. In fact, it was admitted that the proforma sent from the Machine Shop of the Kothagudium Workshop is different than the proforma sent from the machine shop of the Rudrampur Colliery, the latter being simpler and containing lesser details. On the evidence, I am satisfied that the calculation of the performance from the proforma submitted from the machine shop of the Kothagudium workshop is more difficult and requires technical knowledge such as Ramakrishna possessed but which the other clerks doing this type of work in respect of the other sections of the workshop, and the three Checkers in the workshop do not possess. It is not without significance that it is only the proforma sheets of the Machine shop which contain sketches and that the proforma sheets of the other sections do not contain them. It was admitted by Company's witness (Ex. W. 1) that the number of times the loading was required is known from the sketch and is not available in the tables of the incentive plan. It is further on record that Shri Jacob, the Clerk, who is doing the incentive Bonus calculations of the Rudrampur workshop, is under training and guidance of Shri H. A. Rangaswamy (Ex. E. 5) who is heading the Department and could not do the work himself independently, as Ramakrishna is doing in his Department. In effect, it would show that the Incon Head is doing this work and destroys the Company's contention that with a little training any grade II clerk can do this work.

13. In my opinion Ex. U-2 the works distribution order issued in 1961, supports the Union's case.

14. Shri Srinivasanmurthi, learned Advocate for the Company has argued that Ex. E-1 and Ex. E-2 show that in 1962 Ramakrishna had asked for confirmation as Checker on the pay scale of Rs. 48—100 and that he had not asked for any higher pay and that it was only for the first time in 1966 by his representation dated 21/22nd February, 1966 (Ex. E-8) that he had claimed the higher pay of Rs. 115—200. Shri Srinivasanmurthy the learned Advocate for the Company, has argued that the present claim is therefore stale and should be rejected on that ground. He has for that proposition relied upon the decision in the case of Shalimar and Company, (1959 II L.J. page 26) and on the decision of the Andhra Pradesh High Court reported in 1964 I L.J. 622. Ramakrishna in his evidence has stated that he had been making oral claims and that he asked the Union only in 1966 to raise this dispute. No doubt, Ramakrishna was not as vigilant as he might have been, but on the facts and circumstances of the case, I am not inclined to hold that the claim should be rejected on grounds of staleness, particularly as this Reference is to Arbitration under Section 10A of the Industrial Disputes Act and the joint application of the parties and the terms of the reference require the dispute to be decided on the merits i.e. on the nature of the duties performed by Ramakrishna.

15. On the facts and circumstances of the case, and considering the oral and documentary evidence on record with regard to the nature of the duties performed by Shri Ramakrishna, I am satisfied that his demand to be fitted into a higher scale of pay than the scale of pay of Rs. 48—100 is justified.

16. The next question is whether his claim for the grade of Rs. 115—200 is justified?

17. On this question Shri Srinivasanmurthy, the learned Advocate for the Company, has argued that if it is held that his claims for the scale of pay of Rs. 115—200 is held to be excessive, I have, as Arbitrator, no jurisdiction to grant any other alternative relief of a lower scale of pay. He has argued that the jurisdiction of an Arbitrator under Section 10A is more limited and an Arbitrator cannot like an Industrial Tribunal adjudicating on an industrial dispute referred to it under Section 10(1) of the Act, give an alternative lesser relief than the relief claimed.

18. I do not accept this contention. In my opinion in the matter of industrial dispute over what is the proper wage for a particular workman even an Arbitrator under Section 10A like an Industrial Tribunal can under Section 10(1) can give a lesser relief than the relief claimed, if in his opinion, the scale of pay under dispute was the incorrect one. In other words, even an Arbitrator like an Industrial Tribunal in an industrial dispute with regard to what is the proper awarded grade of pay into which a particular workman can be fitted, grant a scale of pay other than the scale of pay demanded for the workman, provided that the scale of pay awarded is not higher than the scale of pay claimed.

19. Shri Srinivasanmurthy has urged that in the terms Reference to Arbitration the words used are "If so" and not "If not" and, therefore whatever relief is to be granted it must be only if it is held that Ramakrishna the workman concerned is entitled to the Grade of Rs. 115—200. In my opinion the words "to what relief he is entitled" give the Arbitrator jurisdiction to give a relief which is of a scale of pay higher than the disputed

scale and lower than the scale to which claim is laid. If the jurisdiction was only to either grant or refuse the claim for the scale of Rs. 115—200, then necessarily the words "to what relief he is entitled to" would be redundant because in that case the only relief would be to grant the scale of pay claimed.

20. It has been urged that I should in awarding the relief bear in mind the repercussions that would follow. But in the Arbitration Agreement the number of workmen likely to be affected by the Award has been stated to be only one.

21. In the result, I am satisfied, on the duties performed by Shri Ch. V. Ramakrishna that he is entitled as a Checker of the Machine Shop to a scale of pay higher than the scale of pay of Rs. 48—100, which is the scale of pay for Clerks Grade II. In my opinion, though he is not entitled to the scale of Rs. 115—200 claimed by him, he is nevertheless, having regard to the nature of the duties performed by him, entitled to a higher scale of pay than that of Rs. 48—100. In my opinion, the proper scale in which he should have been placed as Checker is the scale of pay of Senior Clerks of Rs. 70—158, which is one of the scales awarded by the Coal Award and is in force for certain categories, and I would award that he should get the benefit of that scale *i.e.* the scale of Rs. 70—158. The benefit of this scale should be granted to him not from the date of his appointment as Checker on 7th July, 1961 but from a convenient date after 21/22nd February, 1966 which is the date of his representation (Ex. E-8) and I would fix that date as from 1st April, 1966.

22. I am aware that since this reference was made, the workmen of this Colliery including Ramakrishna have been fitted into the new scales of pay adopted on the basis of the recommendations of the Central Wage Board for the Coal Mining Industry. His fitment into the Coal Wage Board's scales of pay will be as if on the date the benefit of the Coal Wage Board's scales of pay were granted, Shri Ch. V. Ramakrishna was in the grade of Rs. 70—158 of the Coal Award.

23. I further direct that the dues of Shri Ch. V. Ramakrishna under the directions given under this Award shall be paid to him within 2 months of the date of the publication of this Award in the Official Gazette.

No order as to costs.

(Sd.) SALIM M. MERCHANT,
Arbitrator.
[No. 8/132/66-LRII.]

S.O. 3158.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the Datla West Colliery of Messrs Shaw Wallace and Company Limited, Post Office Parasia, District Chhindwara (Madhya Pradesh) and their workmen, which was received by the Central Government on the 3rd August, 1968.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

Dated July 30th, 1968

PRESENT:

Shri G. C. Agarwala—Presiding Officer.

CASE REF. No. CGIT/LC(R) (38) OF 1968

PARTIES:

Employers in relation to Datla West Colliery, P.O. Junnordeo.

Versus

Their workman Shri Jeetoo, C/o. Shri Ramnarayau Singh Thakur, Datla West Colliery, P.O. Junnordeo.

APPEARANCES:—

For employers—Sardar Ujagar Singh, Labour Officer.

For workman—None.

DISTRICT : Chhindwara (M.P.).

AWARD

By Notification No. 5/79/67-LRII, dated 20th May 1968 the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), Government of India, referred the following matter of dispute as stated in schedule to the order of reference, to this Tribunal for adjudication :—

Matter of Dispute

Whether the action of the management of Messrs Shaw Wallace and Company Limited, Post Office Parasia, District Chhindwara (Madhya Pradesh) in retiring their workman Shri Jeotoo son of Vishroo, Underground Trammer of Datla West Colliery with effect from the 1st September, 1966, in the absence of any fixed pension or gratuity scheme and in the absence of any provision in their Standing Orders to this effect was justified? If not, to what relief is the workman entitled?

After the reference order was received on 13th June 1968, the management intimated on 21st June 1968, that they had settled the dispute with the workman concerned Shri Jeotoo. They filed a copy of compromise settlement. Notice was therefore sent to Jeotoo requiring him to show cause why the purported settlement should not be accepted. Jeotoo has, however, not turned up in spite of due service of notice. Evidently, he is no more interested in the dispute, having accepted an *ex-gratia* payment. The compromise settlement which is annexure to the award is therefore accepted and an award is recorded in terms thereof.

(Sd.) G. C. AGARWALA,
Presiding Officer.
30-7-1968.

ANNEXURE

FORM 'H'

Rule 58

Memorandum of settlement

Representing Employers	Mr. C. P. Ghulati, Labour Officer, Shaw Wallace & Co. Ltd. P. O. Parasia, Distt. Chhindwara (M.P.)
Representing workmen	Shri Jeotoo S/o Vishroo, Ex.-U. G. Trammer, Datla West Colliery.

Short Recital of the case

Shri Jeotoo S/o Vishroo was discharged from Service on 1-9-1966 and he accepted his retirement voluntarily but Industrial Dispute was raised with regard to payment of some *ex-gratia* to him. The A.L.C. (C) Jabalpur held conciliation proceedings in the office of the L.E.O. (C) Parasia on 18-11-67 and his failure of Conciliation Report No. J-58 (132)/67 dated 29th Nov. 1967 was submitted to the Govt. which was linked with Ministry of Labour, Employment & Rehabilitation (Deptt. of Labour & Employment) Rule No. 5/79/67-LRII dated 6th Dec. 1967. Shri Jeotoo has now approached the management for settlement of his dispute at this end and accordingly the dispute is settled as under :—

Terms of Settlement

1. Shri Jeotoo will be paid Rs. 500/- (Ru. Five Hundred only) and *ex-gratia* payment in full and final settlement of all his claims with regard to his voluntary retirement;

2. He will also be paid in addition to this amount, all his unpaid dues if any lying with the management relating to his notice pay, leave wages etc. Both the amounts will be paid to him within 10 days of signing of this agreement. Shri Jeetoo agreed that he will not claim any other such benefit from the management nor he will raise any such dispute on that account hereafter.

Sd./- JEETOO S/O VISHROO,
Ex-U.G. Trammer
Datla West Colliery.

Sd./- C. P. GHULATI,
Representative of the employer.

Witness : 1. Sd./- RAM NARAYAN SINGH
Genl. Secretary.
2. Sd./- N. R. PATHAK

Parasia,
3rd May, 1968

Part of the Award

Sd./ G. C. AGARWALA,
Presiding Officer.
[No. 5/79/69-(RII).]

S.O. 3159.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Mudidih Colliery of Messrs Burraker Coal Company Limited, Post Office Sijua, (Dhanbad) and their workmen, which was received by the Central Government on the 6th August, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD.

In the matter of a reference under section 10(1) (d) of the Industrial Disputes Act, 1947.

REFERENCE NO. 72 OF 1967

PARTIES:

Employers in relation to the Mudidih Colliery of M/s. Burraker Coal Company Ltd., P. O. Sijua, (Dhanbad).

Versus

Their Workmen.

PRESENT:

Shri Kamla Sahai, Presiding Officer.

APPEARANCES:

For the Employers—Shri D. Narsingh, Advocate.

For the Workmen—Shri Lalit Burman, General Secretary, Bihar Koyla Mazdoor Sabha, Dhanbad.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, dated the 26th July 1968

AWARD

The Central Government has, by its order No. 2/135/67-L.R.II dated the 2nd December, 1967, referred for adjudication to this Tribunal a dispute which is described in the schedule quoted below :

SCHEDULE

“Whether the action of the management of Mudidih Colliery, Post Office Sijua, District Dhanbad of Messrs Burraker Coal Company Limited of which Messrs.

Bird and Company (P) Limited, Post Office Sijua, District Dhanbad are Managing Agents, in rendering idle S/Shri Jagdish Narain Lall, Store Clerk, Gope Saw and Badri Chamar, Store Mazdoors with effect from the 30th April, 1966, then suspending them with effect from the 13th May, 1966 and subsequently terminating their services with effect from the 7th October, 1966, were justified? If not, to what relief are the workmen concerned entitled?"

2. The management's case is that three pairs of heavy brass bearings of 75 H.P. Haulage were received in the colliery on the 27th January, 1966 and two pairs of such brass bearings were received there in the 3rd February, 1966. By order of the Colliery Engineer, Shri J. P. Sarkar, they were placed in the store of the colliery, were kept on a rack and were marked with chalk "75 H. P. Haulage bearings and parts". Four persons were employed in the store. They were Shri Sudhir Roy, Store Keeper, Shri Jagdish Narain Lall, Asstt. Store Keeper/Store Clerk and two store mazdoors namely, Gope Saw and Badri Chamar. Shri J. P. Sarkar went to the store on the 4th February, 1966 and found that the bearings had been kept in accordance with his instructions in the store. The bearings were needed on the 23rd April, 1966 but, on being searched for, four of the five pairs of bearings were found to be missing. The lost bearings were worth about Rs. 4,000/-.

3. The Manager sent a report (Ext. M1) in connection with the loss to the officer-in-charge of the Jogta Police Station on the 28th April, 1966. The police made investigation and, in due course, submitted chargesheet against all the four persons employed in the store for an offence under section 408 I.P.C. The case was numbered as G. R. case No. 913 of 1966. It was sent for trial to Shri Jagdish Kumar, Munshif Magistrate, 1st Class, Dhanbad. By his judgment (Ext. W1) dated the 6th March, 1967, Shri Jagdish Kumar acquitted all the four accused.

4. In the meantime, however, the four workmen referred to above ceased to work in the store with effect from the 30th April, 1966. The management's case is that they themselves kept away from their duties for fear of arrest by the police but the union's case is that the management stopped them from work with effect from that date. On the 13th May, 1966, the management issued chargesheet No. 79/66 against all the four workmen. It was stated in the chargesheet that five pairs of bearings were kept in the store, that the engineer saw them there on the 4th February, 1966, and that all of them except one pair of small bearings were found missing when they were searched for on the 23rd April, 1966. On these facts, the workmen were charged for "(1) theft, fraud and dishonesty in connection with the company's property and/or abetment of such theft, fraud and dishonesty and (2) neglect of your duty". The workmen were further ordered to be suspended forthwith i.e. from the 13th May, 1966. The chargesheet against the three workmen in question in this case (except Shri Sudhir Roy who has not raised any dispute) has been marked as Exts. M2, M2(a) and M2(b).

5. The chargesheet was sent to Shri Jagdish Narain Lall on the 13th May, 1966 through a peon book. Shri Ratan Ghosh (P.W.2 before the enquiring officer) took it to him. According to Shri Ghosh, Shri Jagdish Narain took the chargesheet from him, read it and then told him that he would not take it. Thereafter the chargesheet was sent to him under registered cover with acknowledgement due on 16th May, 1966 at his local address but he refused to take delivery of the cover which was returned undelivered with the remark "refused". According to the management, it then sent a letter to Shri Jagdish Narain dated the 28th May, 1966, fixing the enquiry for the 10th June, 1966. It was Shri Ratan Ghosh who took that letter also but Shri Jagdish Narain Lall refused to accept it. Another letter was then despatched under registered cover with acknowledgement due on the 30th May, 1966, but that was also returned undelivered with the remark "refused". As the notice of enquiry was returned undelivered after the date fixed for the enquiry i.e., the 10th June, 1966, the enquiry was postponed to 5th July, 1966. Notice relating to that date was sent under registered cover with acknowledgement due on 17th June, 1966, but that letter was returned undelivered on 20th June, 1966, with the postal remark "left without address". As Jagdish had not refused to accept that letter, another letter fixing the enquiry for 20th July, 1966, was sent to him under registered cover with acknowledgement due at his home address as well as local address on 6th July, 1966. The letter sent to him at his local address was returned undelivered on 8th July, 1966, with the postal remark "refused". The letter sent to his home address was received by one Baleshwar Prasad on 8th July, 1966. At the enquiry on 20th July, 1966, held by Shri J. Saran (M.W. 1), Jagdish Narain Lall did not appear. The enquiring officer then recorded the statements of seven witnesses *ex-parte*. They are Exts. M9 series. On the 1st August, 1966, the enquiring officer drew up his report in which he held that the charges had been established against Jagdish Narain Lall.

6. The enquiring officer held another enquiry with regard to Shri Sudhir Roy (with whom I am not concerned), Badri Chamar and Gope Saw. After all efforts to serve chargesheets and notice of enquiry upon these workmen failed, the Enquiring Officer held an *ex-parte* enquiry against them also. He recorded the statement of seven witnesses examined on behalf of the management on 10th June, 1966, 1st July, 1966, and 4th July, 1966. He drew up his report relating to this enquiry on the 19th July, 1966, holding that the charges had made out against Badri Chamar and Gope Saw as also against Shri Sudhir Roy. The report and the proceedings are Exts. M-8 series.

7. On the basis of the above reports, the Manager sent letters dated the 4/7th October, 1966 to Shri Jagdish Narain Lall, Shri Gope Saw and Shri Badri Chamar [Exts. M10, M10(a) and M10(b)] conveying to them the order their services were being terminated with immediate effect. It may be added here that Shri Sudhir Roy's services were also terminated but, as I have said earlier, he has not raised any dispute in that connection.

8. As I have already indicated, the case of the union, Bihar Koyla Mazdoor Sabha, is that the three workmen were stopped from work with effect from the 30th April, 1966, that they were illegally suspended from the 13th May, 1966, because the suspension which lasted for about five months, could last only 10 days under the certified standing orders, and that the termination of the services of the three workmen was also illegal.

9. The following three points may be formulated for consideration in this case:—

- (i) Were the three workmen stopped from work on the 30th April, 1966 by the management?
- (ii) Was the suspension of the three workmen with effect from the 13th May, 1966 illegal?
- (iii) Was the termination of the services of the three concerned workmen with effect from the 7th October, 1966 justified? If not, to what relief are they entitled?

Point (i)

10. The union has not adduced any evidence what-so-ever in support of its allegation that the management of the Burraker Coal Co. stopped the three workmen from their work with effect from the 30th April, 1966. Shri Lalit Burman has argued that, if the workmen had absented themselves from the 30th May, 1966 as alleged by the management, they would certainly have framed a further charge on that allegation against them when issuing chargesheet No. 79/66 on the 13th May, I do not think that that is, by any means, certain. The management may have thought that the charge framed by them was for graver offences and that was enough. Shri Jagdish Narain Lall and Shri Badri Chamar have examined themselves before me as WW1 and WW2. If the management had stopped them from work, they would have surely said so. It is significant that they have kept completely silent about it. I, therefore, held that it has not been established that the management stopped them from work with effect from the 30th April, 1966.

Point (ii)

11. Shri Lalit Burman has himself admitted that the order of suspension passed against the concerned workmen was not illegal at its inception. He has said that they could be suspended during the enquiry. His contention only is that the suspension could not last more than 10 days and certainly not for about five months that the enquiry lasted. It seems to me, however, that the fault for the long duration of the enquiry lies upon the concerned workmen themselves. The management kept making attempts to serve the charge-sheet and the notice of enquiry upon them but they kept on refusing to accept those documents. It seems to me therefore, that the workmen have only themselves to blame for the long duration of the enquiry. Shri Burman has not been able to show that, in the circumstances of this case, the duration of the suspension can be held to be illegal. I, according hold that the suspension was not illegal.

Point (iii)

12. The union has disputed the management's case that the four bearings in question were delivered in the store. It appears that, according to the usual practice, materials are sent to the store along with two copies of a chalan. The store keeper verifies the materials, signs one copy of the chalan in token of having received the materials, and returns that copy to the man who brings the materials. It seems that chalan No. 261 dated the 26th January, 1966 and chalan No. 265 dated the 2nd February, 1966, were chalans with which the five bearings were sent to the colliery. They were filed in the Criminal case as

Exts 6 and 7. At the instance of the union, I called upon the management to produce those two chalans. They have not produced them on the ground that they are missing. It appears from the judgment (Ext. W1), however, that they bore the signature of the Engineer, Shri J. P. Sarkar, and not that of the store keeper. In view of the management's failure to produce the chalans, this statement of fact in the judgment (Ext. W1) must be accepted. This throws some doubt upon whether the bearings in question were or were not kept in a regular manner for safe custody in the store. The Enquiring Officer has, however, after taking the evidence adduced before him into consideration, come to the conclusions that the bearings were kept in the store. I do not see any ground for holding that this finding is perverse or that any principle of natural justice was infringed during the enquiry. Hence, I proceed upon the assumption that this finding of the enquiring officer is correct.

13. The two important questions which remain are (1) whether there is any evidence in this case to prove that Jagdish Narain Lall, Badri Chamar or Gope Saw were responsible for safe custody of the bearings in the store, and (2) whether it can be assumed on the basis of any proved fact that these workmen were involved in the loss of the bearings. The enquiring officer does not seem to have addressed himself to these questions. After examining the evidence in the case of Jagdish Narain Lall, he has come to the following conclusions :—

- “(a) that the five pairs of brass-bearings were received in the stores (three pairs on 27th January, 1966, and two on 3rd February, 1966).
- “(b) that they were shown to Sudhir Babu, Jagdish Babu and Badri Chamar.
- “(c) that four pairs of brass-bearings were stolen as they could not be traced out in the stores.
- “(d) that only four persons (S/Shri Sudhir Roy, Jagdish Narain Lall, Badri Chamar and Gope Saw) work in the Mudidih Ex Stores and so the things cannot be removed from the stores without their knowledge and if removed, this cannot remain unnoticed.
- “(e) that Shri Jagdish Narain Lall refused to accept the chargesheet, the letter of enquiry and also did not attend the enquiry. This proves beyond reasonable doubts that Shri Jagdish Narain Lall was also in collusion with the other three (S/Shri Sudhir Roy, Badri Chamar and Gope Shaw) and abetted each other in the theft of the four pairs of brass-bearings.
- “(f) that no theft by outsiders was committed in the stores as none of the accused persons had ever made any such allegation and no such report from any quarter was ever made to the management”.

14. I have already assumed the findings at point (a) to be correct. All that it establishes is that the bearings were received in the store. Point (b) is of no consequence because the mere fact that the bearings were shown to the workmen in question would not mean that they were made responsible for their safe custody. Point (c) does not implicate any of the three workmen in question. So far as point (d) is concerned, it is to be noticed that Sudhir Roy was the store keeper. It was his responsibility to safeguard all materials kept in his store. There is no evidence on the point but I suppose that he must have been incharge of the keys also. He could, therefore, remove anything from the store at any time without bringing the three workmen in question in collusion. For instance, he could remove the bearings or allow them to be removed from the store at night or on a holiday when the other workmen were not present. Point (e) is wholly unimportant because the mere fact that Jagdish Narain Lall did not choose to accept chargesheet or notice of enquiry cannot leave to inference of his guilt. The point taken at (f) may be correct but it does not point to the guilt of any of three workmen in question.

15. Similar is the position with regard to the workmen other than Jagdish Narain Lall. The conclusions which the enquiring officer has arrived at are almost the same. They are, therefore, subject to the same criticism.

16. In conclusion, it seems to me that there is no evidence at all to prove that the bearings were put in the custody of the three workmen in question nor is there any evidence to prove that they either committed theft, fraud or dishonesty or abetted any such misconduct. Unless the circumstances of the removal of the bearings were known to them, it is difficult even to say that were guilty of neglect of duty. There is no evidence to show that the materials kept in the store were few and not many. If there were many materials Shri Jagdish Narain Lall and the two mazdoors may not have had such a keen power of observation as to have noticed the loss of the bearings before they started being searched for. There being no evidence on the point, it is also difficult to hazard a guess as to when actually the bearings were removed from the store.

17. In the circumstances mentioned above, I hold that the termination of the services of the three workmen in question were not justified. The relief to which they are entitled is that they should be re-instated with effect from the date of termination of their services. They will not be entitled to their wages during the period from the 30th April, 1966 upto the 12th May, 1966 when they were voluntarily absent but they will be entitled to their wages from the date of their suspension upto the date of their reinstatement. This is my award. Let it be submitted to the Central Government under section 15 of the Industrial Disputes Act, 1947.

(Sd.) KAMLA SAHAY,
Presiding Officer.

[No. 2/135/67-LRIL]

New Delhi, the 19th August 1968

S.O. 3160.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Hyderabad, in the matter of an application under Section 33A of the said Act from Shri S. Xavier and 65 others, workmen of Mines Engineering Department of Singareni Collieries Company Limited, Post Office Kothagudum Collieries, which was received by the Central Government on the 8th August, 1968.

BEFORE THE INDUSTRIAL TRIBUNAL, (CENTRAL) AT HYDERABAD.

PRESENT:

Sri Mohammad Najmuddin, M.A., B.L., Chairman, Industrial Tribunal, Andhra Pradesh, Hyderabad.

MISCELLANEOUS PETITION No. 88 OF 1968

IN

INDUSTRIAL DISPUTE No. 30/1967

BETWEEN

1. S. Xavier, (2) B. Samuel, (3) G. Daya Rao, (4) K. J. Sudershanam, (5) Ram Kishna Loadh, (6) S. Venkaty, (7) Hussain Khan, (8) Faiz Md. Khan, (9) G. Madviah, (10) D. P. Dass, (11) John Wesley, (12) K. Venkat Rao, (13) K. Charles, (14) Md. Khan, (15) S. N. Devadanam, (16) P. Bulliah, (17) E. Pulliah, (18) A. Venkatapathy, (19) E. Manakiah, (20) A. Rasool, (21) Sk. Myboob, (22) Alli Miya, (23) M. Ramakrishna, (24) B. Paul, (25) G. Ramanurthy, (26) Md. Hussain, (27) Rameshwar Coory, (28) G. Amrutha Rao, (29) Sk. Rasool, (30) Anthony Das, (31) Sayed Mohiddin, (32) D. Ramulloo, (33) B. Durgiah, (34) M. D. Anthony Das, (35) Md. Shuffy, (36) K. Rajeswar Rao, (37) J. Enkaty, (38) M. C. Chinnathambi, (39) M. Sunder Raj, (40) P. Rajeeru, (41) E. Malliah, (42) B. Veeriah, (43) A. Muthiah, (44) D. John Jogulu, (45) Gesudha Raj, (46) Sk. Myboob, (47) P. N. G. Naidu, (48) Salar Khan, (49) P. Suguna Rao, (50) T. Joseph, (51) Amanulla Khan, (52) Etti Narsiah, (53) N. Balakrishna, (54) S. John Biksham, (55) L. Laxman, (56) K. Railingu, (57) Myboob, Ali, (58) B. Prakasham, (59) Md. Moulana, (60) Pottiah, (61) K. Viswanatham, (62) Y. Subba Rao, (63) B. Raimallu, (64) K. Venkateswararao, (65) Joga Laxmiah and (66) Smt. K. Shanthamma.

Workmen of Mines Engineering Department of Singareni Collieries Co. Ltd., P.O. Kothagudum Collieries.—*Complainants.*

AND

Management, Singareni Collieries Co. Ltd., P.O. Kothagudum Collieries.—*Opposite Party.*

APPEARANCES:

Neither side is present.

AWARD

This application is under section 33A of the Industrial Disputes Act. There are 66 applicants. A list of 66 workers is appended. In the first instance 60 applicants had signed the application, and later the others also had come in by an additional application by signing the same. The respondent Company has a department called Mines Engineering Department. The applicants who are in various classes, such as fitters, electricians, welders, turners, carpenters, blacksmiths, hammermen, tool room attendants.

mazdoors, sweepers, painters and clerks, were on the establishment of the Mines Engineering Department. In the month of March, 1968 the Management had transferred them to the Labour Training Pool. It is complained that the transfer affects conditions of their service. I.D. No. 30/67 is pending here, the parties to it being the Management of the Collieries on the one side and its employees on the other. The issue in it is with regard to wage structure as is said to be envisaged by the recommendations of the latest Wage Board on Coal Industry. The applicants are thus concerned with that dispute. The Management did not think it necessary to make an application under section 33(2) (b) of the I.D. Act in respect of transfer of these applicants. It is complained in the application that the transfer of the applicants to the Labour Training Pool was violative of the provisions of section 33. It is characterised as *mala fide*. The transfer in question is stated to have jeopardised the cause of the workmen in I.D. No. 30/67. It is prayed that the Management may be directed not to effect alterations in conditions of service.

2. The Management filed counter. It is admitted that the applicants were on the establishment of the Mines Engineering Department where repairs to machinery is attended to. It is stated that this department was looking after the needs of the nearby mines, such as A.I. No. 1, A.I. No. 2, No. 3, Incline and No. 4 Incline. It is pointed out that A.I. No. 1 and Nos. 3 and 4 Inclines were closed a few years ago and that only A.I. No. 2 and the coal screening plant attached thereto had been working. It is further stated that A.I. No. 2 is under the process of closure and that the same would be closed down by the middle of June 1968. The case of the Management is that in consequence of the closure of these mines it was uneconomic to maintain the Mines Engineering Department and that therefore the department itself had been closed down, and that the concerned workers are being absorbed in different mines and in the other workshops of the Collieries. It is stated that it was for that reason that the workers in question were transferred to the Labour Training Pool. It is pointed out that such transfer had not affected either their wages or their conditions of service, that they were continuing to get the same rate of pay as they were getting while in the Mines Engineering Department and that they continue to avail the same privileges as hitherto.

3. This application stands posted to this day for enquiry. Despite notices, neither side is present. I will proceed to dispose of the case.

4. It is no doubt true that the applicants are concerned with the dispute in I.D. No. 30/67, but it is for them to prove how their transfer to the Labour Training Pool was violative of the provisions of section 33. They have failed to prove it. In fact, they are not even present today to participate in the enquiry. Whatever their claim may be in the dispute in I.D. No. 30/67, that would be decided on merits by way of an award that would follow from this Tribunal. The Management says in the counter that the Mines Engineering Department itself has been closed down because the nearby mines to which this department was catering had themselves been closed down. The Management is well within its rights to close down the Mines Engineering Department when it is found that its retention is not only uneconomical but also unnecessary. The Management did not retrench the workers but is employing them in various other departments and workshops, and for this purpose it had transferred the concerned workers to the Labour Training Pool. It is for the workers to prove how this transfer to the Labour Training Pool had in any way affected their emoluments or other conditions of service. They have not proved it. On the other hand, the Management states categorically in its counter that the conditions of service and emoluments in the Labour Training Pool are the same as obtained when the workers were in the Mines Engineering Department. I do not see any valid reason why I should not accept that categorical statement in the counter filed by the Management.

5. There is no relief to be granted to any of the applicants in this application under section 33A. This application is rejected.

AWARD passed accordingly.

Given under my hand and the seal of the Tribunal, this the 27th day of July, 1968.

(Sd.) M. NAJMUDDIN,
Industrial Tribunal.
Hyderabad.

[No. 7/21/67-LRII-II]

New Delhi, the 21st August 1968.

S.O. 3161.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal No. 2) Dhanbad, in the industrial dispute between the employers in relation to the Kirkend Colliery of Messrs Motiram Roshanlal Coal Company (Private) Limited, Post Office Kusunda, District Dhanbad and their workmen, which was received by its order No. 21/131/65-LRII, dated the 16th December, 1965, referred to the Central

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2)
AT DHANBAD**

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE No. 93 OF 1967

In the matter of an industrial dispute under Section 10(1)(d) of the Industrial Disputes Act, 1947.

PARTIES:

Employers in relation to the Kirkend Colliery of Messrs Motiram Roshanlal Coal Company (Private) Limited, Post Office Kusunda, District Dhanbad

AND

Their workmen

APPEARANCES:

For the employers:—Shri P. C. Chowdhury, Managing Director.

For the workmen:—Shri Ram Mitra, Secretary, Bihar Koyala Mazdoor Sabha.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, 8th August 1968

17th Sravana 1890 (Saka)

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Kirkend Colliery of Messrs Motiram Roshanlal Coal Company (Private) Limited, Post Office, Kusunda, District Dhanbad and their workmen, by its order No. 2/131/65-LRII, dated the 16th December, 1965, referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1) (d) of the Industrial Disputes Act, 1947 for adjudication of the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:—

SCHEDULE

“Whether the management of the Kirkend Colliery of Messrs Motiram Roshanlal Coal Company (Private) Limited was justified in stopping the workmen, whose names are given in the Annexure, from work with effect from the 13th August, 1965, without any compensation. If not, to what relief are the workmen entitled?”

ANNEXURE

63 Workmen”

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 201 of 1965 on its file. While it was pending before the Central Government Industrial Tribunal, Dhanbad, the proceeding was transferred to this Tribunal, by the Central Government by its order No. 8/25/67-LRII, dated 8th May, 1967 under Section 33B of the Industrial Disputes Act, 1947. Consequently the reference is renumbered on the file of this Tribunal as reference No. 93 of 1967. Employers as well as the workmen filed their statements of demands.

3. This is an admitted case of abandonment of an undertaking as envisaged in Section 25FFF of the Industrial Disputes Act, 1947. The employers closed down their colliery, Kirkend Colliery of which the 63 persons mentioned in the Annexure to the reference are stated to be workmen, with effect from 13th August, 1965. According to the workmen the closure of the undertaking and stopping of its 63 workmen from working was *mala fide*, in that the employers disliked the union of the workmen, Bihar

Koyla Mazdoor Sabha for its activities of pressing before the management for the payment of wages to the workers and for ventilating their lawful and justified grievances. The employers denied compensation to the workmen stating that the closure of the undertaking was for circumstances beyond their control. In their statement they have denied that the workmen were laid off or were entitled to lay off compensation. The workmen were represented by Shri Ram Mitra, Secretary, Bihar Koyla Mazdoor Sabha and the employers by Shri P. C. Chowdhury, Managing Director. On behalf of the workmen a witness was examined and by their consent Ext. M.1 was marked. On behalf of the employers also a witness was examined and Exts. M.2 to M.5 were marked.

4. Admittedly, the colliery was closed down with effect from 13th August, 1965. When an undertaking is closed down, Section 25FFF of the Industrial Disputes Act, 1947 comes into play. The words, "where an undertaking is closed down for any reason whatsoever" of the section do not leave any scope for enquiry to find out if the closing down of the undertaking was justified or not. In such a case the employees of the undertaking are left with no remedy other than the one to claim compensation in terms of the section. Of course, the employees could lead evidence to establish that the closing down was malafide. In the instant case the workmen had pleaded that the closing down of the colliery was because of the dislike by the employers of the activities of Bihar Koyla Mazdoor Sabha of which the concerned workmen were members. But, apart from the bald allegation made by WW1 there is no clinching evidence to substantiate the same. The employers denied that several of the workmen mentioned in the Annexure to the reference were in their service on the date of the closure of the colliery and that for other reasons also they were not entitled to any compensation. But, as stated in section 25FFF of the Industrial Disputes Act, 1947 the employees of the undertaking, which is closed down cannot be denied compensation as laid down in it. It is a matter for the concerned Labour Court to determine which of the workmen referred to in the schedule to the reference were employees of the colliery and to what compensation and at what rate they are entitled.

5. I, therefore, hold that the management of Kirkend Colliery of M/s. Motiram Roshanlal Coal Co. (P.) Ltd. was justified in stopping the workmen whose names are given in the Annexure to the schedule of the reference from work with effect from the 13th August, 1965. But they are bound to pay to the employees of the colliery compensation in terms of Section 25FFF of the Industrial Disputes Act, 1947. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

N. VENKATA RAO, Presiding Officer,
Central Govt. Industrial Tribunal,
(No. 2), Dhanbad.
[No. 2/131/65-LR.II.]

S.O. 3162.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal (No. 1) Dhanbad in the matter of a complaint under section 33A of the said Act from Shri Babulal Mahato Care of Coal Workers Union, Bhurkunda Branch, Post Office Bhurkunda, Hazaribagh (Bihar) which was received by the Central Government on the 14th August, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, DHANBAD

In the matter of a complaint under section 33A of the Industrial Disputes Act, 1947.

COMPLAINT NO. 4 OF 1967

(ARISING OUT OF REFERENCE NO. 62 OF 1967)

PARTIES:

Babulal Mahato, C/o Coal Workers Union, Bhurkunda Branch, P.O. Bhurkunda, Hazaribagh (Bihar).—*Complainant.*

VS.

Deputy Supdt. of Collieries, Sayal 'D' Colliery N.C.D.C. Ltd., P.O. Sayal, Distt. Hazaribagh, (Bihar).—*Opp. Party.*

PRESENT:

Shri Kamla Sahai, *Presiding Officer.*

APPEARANCES:—

For the Complainant:—Shri Braj Kishore Prasad, Advocate.

For the Opposite Party:—Shri Jagdish Prasad, Advocate.

Dhanbad, dated the 31st July, 1968.

AWARD

Shri Babulal Mahato was employed as a shotfirer in the National Coal Development Corporation Limited (shortly called N.C.D.C.). His case is that he is a permanent employee of the N.C.D.C. at Sayal 'D' Colliery, that he is an active member of the Coal Workers' Union, that the Deputy Supdt. of Collieries Sayal 'D' Colliery, charge-sheeted him for alleged lapses and misconduct, that the enquiry committee constituted in order to enquire into the charge framed against him made a so-called enquiry, that the principles of natural justice were not observed at the enquiry, that the opposite party should have applied under section 33(2) (b) of the Industrial Disputes Act to the Tribunal for approval of his dismissal on account of the pendency of reference No. 105 of 1965 but it did not apply for approval and that the Corporation did not pay him one month's wages as it should have done.

2. According to the charge issued by the Dy. Superintendent of collieries, Sayal, to Babulal Mahato, the allegation against him is as follows:—

".....On 19th November 1964, in your shift (2nd shift) you left a misfire in the 15th East Level of Semana Incline and did not record the fact of misfire in the shotfirers' report book. Also you did not inform the shotfirer of the succeeding shift. The misfire shot was relieved in the succeeding shift i.e. 3rd shift on 19th November 1964, when the same was detected. You have also been issued warning letters for similar lapses on your part in past."

"The above acts of yours amounts to serious breach of provisions of Coal Mines Regulations 1957 and indicate gross negligence on your part in discharge of statutory duties and constitute serious misconduct".

3. An enquiry committee was constituted for making an enquiry into the chargesheet quoted above. The committee recorded the statements of witnesses and ultimately submitted a report, finding the alleged delinquent guilty of the charge framed against him. On the basis of its finding, the Dy. Supdt. of collieries, Sayal, dismissed the workman concerned with effect from the 9th July, 1965. Admittedly, the management did not file an application for approval of the dismissal under section 33(2)(b) of the Industrial Disputes Act.

4. Reference No. 105 of 1965, which has been referred to by the complainant, was originally pending before this Tribunal under the Ministry's order No. 2/70/64-LRII dated the 19th June, 1965. By order No. 8/25/67-LRII dated the 16th September 1967, it was transferred to the Central Government Industrial Tribunal at Jabalpur where it was registered as reference No. 135 of 1967. Ultimately the case was re-transferred to this Tribunal under order No. 8/25/67-LRII dated the 24th November, 1967. It was then numbered as reference No. 62 of 1967. The workman concerned in that reference was Shri Ramendra Kumar. The dispute described in the schedule attached to the reference was :—

SCHEDULE

"Whether the services of Shri Ramendra Kumar, Shotfirer were terminated, by the management of the Sayal 'D' Colliery of the National Coal Development Corporation Limited, for unsatisfactory work during his probationary period and if not, to what relief is the workman entitled?"

5. Shri Jagdish Prasad, Advocate, has raised the preliminary objection that this complaint is not legally maintainable because the complainant was not concerned in the dispute which led to the reference mentioned above.

6. The question which arises for consideration, therefore is whether Shri Babulal Mahato, the complainant, can be said to have been concerned in reference No. 62 of 1967. I had a similar question to decide in complaint No. 15 of 1966 (Shri Tej Bahadur, Watchman, Jamadoba Colliery *vs.* Tata Iron and Steel Co. Ltd., Jamadoba), which I disposed of on the 30th October, 1967. I referred in my award in that case to the decisions of the Supreme Court in *New India Motors (P) Ltd., versus Morris (K. T.)* 1960 (I) L.L.J. 551; *Digwadih Colliery Vs. Ramji Singh—1964*. (II) L.L.J. 143 and *Tisco Ltd., Vs. D. R. Singh* 1965 (II) L.L.J. 122. The Patna High Court considered

all these decisions in New India Sugar Mills Ltd., Darbanga Vs. Krishnaballabh Jha and others—1967 (II) L.L.J. 210. Their Lordships observed in that case:—

"...there must be some common feature in the nature of the dispute in the cases which should serve as a connecting link thereby rendering the workmen in the later case also workmen concerned in the dispute in the earlier case. The mere fact that the same union had taken up the cause of the two workmen, or else that by virtue of S. 18 (3)(d) of the Act all workmen may be bound by the award in the earlier dispute, may not suffice, unless there is some other common feature in the two disputes as mentioned above".

7. It was argued before me on behalf of the complainant in that case that the complainant was interested in a previous reference because he had sympathy with the workman concerned in that reference. I considered this argument and said,

".....in my opinion the mere fact that a workman has sympathy for another workman who is involved in a dispute and hopes that he would be free from his difficulties cannot mean that he is a workman concerned in the dispute. The question which has to be examined is whether a principle can be or is likely to be laid down in the previous dispute which principle is likely to be applicable to and is of interest to the complainant. It is only then that the workman directly concerned in the previous dispute and the complainant can be said to have a common interest in that dispute. In other words, the complainant in order that he may be held to be concerned in a previous dispute should be interested in the principle involved in that dispute and not in the workman in his personal capacity".

8. If the present case is judged on the basis of the principles quoted above, it will be found that the complainant is a permanent employee and not on probation. The question whether the services of Shri Ramendra Kumar were terminated for unsatisfactory work during his probationary period could be of no interest to him. Shri Braj Kishore Prasad has argued that the common features in both cases—the one against Ramendra Kumar and the present complaint—is that both workmen involved were shotfirers. This cannot possibly be said to be a link between the two cases because, as I have already said, the question in Ramendra Kumar's case was whether he was discharged during his probationary period and the position in this case is that Shri Babulal Mahato—a permanent employee—has been dismissed on account of proved misconduct.

9. Shri Braj Kishore Prasad has then pointed out that one of the allegations against Ramendra Kumar was that he left a misfire without mentioning it in the shotfirers' report book and without informing the shotfirer who came in the next shift. That may be so but the question in that reference was still quite different. It was whether Shri Ramendra Kumar's work could be described to be unsatisfactory during a period which could be held to be his probationary period. The complainant cannot be held to be concerned in any principle which could be laid down in that reference.

10. In the circumstances mentioned above, I hold that Babulal Mahato cannot be said to have been concerned in reference No. 62 of 1967. Hence his complaint is not legally maintainable. It is accordingly rejected. This is my award. Let it be submitted to the Central Government.

(Sd.) KAMLA SAHAI, Presiding Officer.

[No. 2/70/64-LRII.]

S.O. 3163.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, (No. 2) Dhanbad, in the industrial dispute between the employers in relation to the Coal Washing Plant of Messrs Tata Iron and Steel Company Limited, Jamadoba, Post Office Jealgora, District Dhanbad and their workmen, which was received by the Central Government on the 12th August 1968.

OFFICE OF THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE NO. 120 OF 1967

In the matter of an industrial dispute under Sec. 10(1)(d) of the Industrial Disputes Act, 1947.

PARTIES:

Employers in relation to the Coal Washing Plant of Messrs. Tata Iron and Steel Company Limited, Jamadoba, Post office Jealgora, District Dhanbad

AND

Their workmen.

APPEARANCES:

For the employers: Shri L. H. Parvatiyar, Legal Assistant.

For the workmen: None.

STATE: Bihar

INDUSTRY: Coal

Dhanbad 8th August, 1968

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Coal Washing Plant of Messrs. Tata Iron and Steel Company Limited, Jamadoba, Post office, Jealgofa, District Dhanbad, and their workmen, by its order No. 1/1/66-LRII dated 5th March, 1966 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication of the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

"Whether the suspension of Shri Kundan Singh, Heavy Tindal Mazdoor, for ten days with effect from the 18th October 1965, by the management of the Coal Washing Plant of Messrs. Tata Iron and Steel Company Limited was justified? If not, to what relief is the workman entitled?"

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 43 of 1966 on its file. While it was pending before the Central Government Industrial Tribunal, Dhanbad, the proceeding was transferred to this Tribunal, by the Central Government by its order No. 8/25/67-LRII dated 8th May, 1967 under section 33-B of the Industrial Disputes Act, 1947. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 120 of 1967. Employers filed their statement of demands.

3. Shri Kundan Singh (hereinafter referred to as the affected workman), was a Heavy Tindal Mazdoor in the Coal Washing Plant of the employers. On 20th April, 1965, a letter was addressed to the affected workman advising him to hand over the vacant possession of quarter No. CG-1 at 3 Pit area which was reportedly under his unauthorised occupation, within 7 days. As he did not comply with the letter a charge-sheet was issued to him on 25/29th May, 1965, stating that by not vacating the quarter he had committed misconduct under clause 19(1) of the Certified Standing Orders and that he should submit his explanation within 72 hours. The affected workman submitted his explanation admitting that he was in possession of the quarter in question and trying to justify it on several grounds. The Welfare Officer (P) Central at Jamadoba of the employers held departmental enquiry against the affected workman after issuing him a notice. The affected workman attended the enquiry and the Enquiry Officer recorded his statement. Having found the affected workman guilty of the charge the Enquiry Officer recommended that the affected workman may be given one more opportunity to vacate the quarter forthwith and in default necessary action may be taken against him. Accordingly by a letter dated 18/19th July, 1965 the affected workman was asked once again to vacate the quarter within 7 days. On 22nd September, 1965, the affected workman asked for further time to vacate the quarter. Accordingly the proposed punishment was withheld and the affected workman was given again time of 10 days to vacate the quarter. But the affected workman did not vacate the quarter. Consequently, by the letter dated 20th September, 1965/15th October, 1965, he was suspended for 10 days with effect from 18th October, 1965, as a punishment for his insubordination under Cl. 19(1) of the Certified Standing Orders. In spite of service of notice and giving them several opportunities the workman did not choose to file their statement of demands. On 7th May, 1968, Shri B. N. Sharma, President, Congress Mazdoor Sangh, Bihar appeared for the workmen before the Tribunal and one more opportunity was again given to him to file the statement of demands. But on the two subsequent hearings, 25th May, 1968 and 17th June, 1968 no one appeared to represent the workmen nor was their statement of demands filed. Consequently, the case proceeded in accordance with Rule 22 of the Industrial Disputes (Central) Rules, 1957 as though the workman were present or duly represented. A witness was examined on behalf of the employers and Exts. M1 to M10 were marked. The employers were represented by Shri L. H. Parvatiyar, Legal Assistant.

4. Ext. M1 is the charge-sheet calling upon the affected workman to show cause why he should not be dismissed from service or otherwise punished for committing misconduct under Clause 19(1) of the Certified Standing Orders by not vacating the quarter as directed by the Manager. The affected workman submitted his explanation trying to justify his action by stating that the quarter in question was allotted to his father and that after the retirement of his father he was continuing to occupy it. MW1, Welfare Officer conducted.

the domestic enquiry and during the enquiry also the affected workman took the same stand, which could not be justified in any manner. The statement of the affected workman recorded during the enquiry is Ext. M3 and the report of the Enquiry Officer is Ext. M4. In spite of the affected workman having been found guilty the employers gave him further opportunities. But the affected workman did not vacate the quarter. Ultimately the employers issued the letter, Ext. M9 suspending him for 10 days as a punishment for his insubordination under Clause 19(1) of the Certified Standing Order with effect from 18th October, 1965. Exts. M1 to M9 are proved by MW1. Exts. M10 are the Certified Standing Orders and they are also proved by MW1. The case of the employers is not contested. I do not find any reason why the evidence of the employers should not be believed. I find that the punishment awarded to the affected workman was very lenient and just.

5. I, therefore, find that the suspension of the affected workman, Shri Kundan Singh, Heavy Tindal Mazdoor, for 10 days with effect from the 18th October, 1965, by the management of the Coal Washing Plant of Messrs. Tata Iron and Steel Company Limited was justified and, consequently, he is not entitled to any relief. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,
Presiding Officer,
[No. 1/1/66-LRII.]

S.O. 3164.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the management of Jaipuria Kajora Colliery (Messrs Jaipuria Kajora Collieries Limited, P. O. Ondal, District Burdwan) and their workmen which was received by the Central Government on the 12th August, 1968.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE No. 83 OF 1967

PARTIES:

Employers in relation to the management of Jaipuria Kajora Colliery (Messrs. Jaipuria Kajora Collieries Limited),

AND

Their workmen.

PRESENT:

Shri B. N. Banerjee—Presiding Officer.

APPEARANCES:

On behalf of Employers—Shri Ramachandran, Group Labour Officer.
On behalf of Workmen—Absent.

STATE: West Bengal

INDUSTRY: Coal Mines

AWARD

By an Order No. 6/70/67-LRII., dated November 4, 1967, the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), referred the following dispute between the management of Jaipuria Kajora Colliery (Messrs Jaipuria Kajora Collieries Limited) and their workmen to this tribunal, namely :—

“Whether the management of Jaipuria Kajora Colliery, Post Office Ondal, District Burdwan, was justified in dismissing Shri Sarat Chandra Adhikary? If not, to what relief is the workman entitled?”

2. The workmen and the management both filed their written statements. Thereafter a joint petition of compromise was filed, on July 20, 1968, to the following effect :—

- “1. As desired by the worker, Sri Sarat Chandra Adhikary, the management agrees to re-employ him on and from 12th July, 1968.
2. The worker Sri Sarat Chandra Adhikary has agreed to accept and the management has agreed to pay a sum of Rs. 350/- (Three hundred and fifty only) in full settlement of the dispute.

3. The period of service from 31st March, 1967 until the date of re-employment will be treated as leave without wages and the service will be deemed to be continuous.

4. The parties shall bear their own cost.

5. The dispute thus stands completely and fully settled."

3. By the above petition it was prayed that an award may be passed in terms of the settlement.

4. Shri Ramachandran, Group Labour Officer of Jaipuria Samla Amalgamated Collieries Ltd., appeared on behalf of the employers to-day. The workmen did not appear. Shri Ramachandran was therefore called upon to prove the settlement which he did. Having considered the evidence, I am satisfied that the dispute between the parties has been settled in terms of the joint petition of settlement and no further dispute now exists between the parties.

5. I therefore pass an award in terms of the petition of compromise. Let the petition of settlement, as set out in the schedule hereto attached, form part of this award.

(Sd.) B. N. BANERJEE,
Presiding Officer.

Dated, the August 6, 1968.

SCHEDULE

BEFORE THE HONOURABLE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA.

IN THE MATTER OF REF. No. 83 OF 1967

PARTIES:

Employers in relation to Jaipuria Kajora Colliery of Messrs Jaipuria Samla Amalgamated Collieries Ltd.

AND

Sri Sarat Chandra Adhikary.

In the matter of dismissal from service of Sri Sarat Chandra Adhikary, Mining Sirdar. Referred to adjudication by the Government of India, Ministry of Labour and Employment vide Notification No. 6/70/67-LR.II dated 4th November, 1967.

The parties above named beg to submit that they have arrived at an amicable settlement on the following terms:

1. As desired by the worker, Sri Sarat Chandra Adhikary, the management agrees to re-employ him on and from 12th July, 1968.

2. The worker Sri Sarat Chandra Adhikary has agreed to accept and the management has agreed to pay a sum of Rs. 350/- (Three hundred and fifty only) in full settlement of the dispute.

3. The period of service from 31st March, 1967 until the date of re-employment will be treated as leave without wages and the service will be deemed to be continuous.

4. The parties shall bear their own cost.

5. The dispute thus stands completely and fully settled.

In these circumstances the Hon'ble Tribunal is respectfully requested to give an award on this basis.

Witness: (Sd.) Illegible.

Employer: (Sd.) Illegible.
Workmen: (Sd.) Illegible.

I understand fully the terms of the settlement and am fully satisfied therewith.

(Sd.) Illegible.
11-7-68.

[No. 6/70/67-LR.II.]

New Delhi. the 26th August 1968

S.O. 3165.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Hyderabad, in the industrial dispute between the employers in relation to the Belampalli Group of Collieries, Singareni Collieries Company Limited, P. O. Belampalli Collieries (Andhra Pradesh) and their workmen, which was received by the Central Government on the 12th August, 1968.

BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL) AT HYDERABAD

PRESENT:

Shri Mohammad Najmuddin, M.A., B.L., Chairman, Industrial Tribunal, Andhra Pradesh, Hyderabad.

INDUSTRIAL DISPUTE No. 44 OF 1966

BETWEEN:

Workmen of M/s. Singareni Collieries Co. Ltd., Belampalli.

AND

The Employers of M/s. Singareni Collieries Co. Ltd., Bellampalli.

APPEARANCES:

Shri S. Narayan Reddy, General Secretary, A. P. Colliery Mazdoor Sangh, Kothagudem, for the workmen.

Shri M. Shyam Mohan, Personnel Officer, for Employers.

AWARD

The Government of India in its Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) had, by notification No. 7/30/66-LRII dated 25th August 1966, referred this dispute to me for adjudication. The issues as per schedule annexed to the notification are these:—

- (1) Whether, having regard to the duties performed and responsibilities shouldered by them, Sarva-Shri Hanmandla Muthiah, Vadnala Kistiah and Abdul Nabi are entitled to the grade of Assistant Drillers, i.e., Rs. 48—100? If so, from what date?
- (2) Whether, having regard to the duties performed and responsibilities shouldered by them, Sarva-Shri Gulam Jabbar, Andugula Chinniah, Mudimodugula Elliah, Gardam Hanamanthi, Mohamed Afzal, Mohamed Mirza, Palli Rajam, S. Seetharam, Gunde Chandraiab, Oram Allah and Narada Seetharam are entitled to the grade of Rs. 43—82? If so, from what date?

2. The Andhra Pradesh Colliery Mazdoor Sangh, Kothagudem, is party to the reference. The statement of claims is filed by and under the signature of Mr. S. Ramireddy, General Secretary, Andhra Pradesh Colliery Mazdoor Sangh. There are three claimants under Issue I, and eleven claimants under Issue II. The case of the claimants under Issue I is that they had been working as Assistant Drillers in the Prospecting Department of the Company at Belampalli "since past several years" and that they had been designated as Assistant Drillers on the records of the Company. In spite of that, the Company is stated to have put them in Category IV while implementing the Majumdar Award as modified by the Labour Appellate Tribunal. This is said to be wholly unjustified. This particular category is that of senior Drilling Mazdoors. In spite of being so placed in that category, these claimants are stated to have continued to work as Assistant Drillers. When they protested about being continued in Category IV, the Management is stated to have put them in Category VI which is the Category for drilling mukaddams. This is said to be arbitrary and illegal because it is claimed that the claimants were continuing to perform the duties of Assistant Drillers "as usual". I may here point out that it is not specified as to what were the duties the claimants under Issue I were doing, nor about the responsibilities shouldered by them, which are said to be those of Assistant Drillers. It is prayed under Issue I that the Management be directed to allow the grade of Rs. 48—100 which is the grade for Assistant Drillers "in view of the actual duties performed by them". This relief is claimed from the date they had been working as Assistant Drillers. But that point of time is not mentioned in the statement of claims. In respect of the 13 claimants under Issue II, it is pointed out that they had been actually working as Junior Drillers in the Prospecting Department of the Company at Belampalli. They are also described as

Shift Incharges in the statement of claims. It is not specified as to the point of time from which these claimants had been working as Junior Drillers or as Shift Incharges. It is stated that after repeated representations in this behalf the Management started paying them Category VI wages as officiating allowance treating them as if they were officiating as Mukaddams although, in fact, they were working as Junior Drillers (Shift Incharges). It is claimed that they should be paid wages in the scale of Rs. 43—82 which is the wages for Junior Drillers. I may state here that it is not specified what were the duties performed by them or the responsibilities shouldered which enable them to claim that they are working as Junior Drillers and therefore were entitled to wages paid to Junior Drillers. It is prayed that such wage should be paid with retrospective effect, that being "from the date they have been working as such". It is not stated as to from when they were working as such. In respect of both sets of claimants it is stated in the statement of claims that whatever the Management had done or had refused to do in respect of them, was as a measure of harassment and victimisation on its part. It is not explained why the Management should be so motivated.

3. The Management filed counter. It is denied that the three claimants under Issue I were working as Assistant Drillers or that they were designated as such in the records of the Company. It is stated that these claimants were originally drilling mazdoors in Category IV and that later they were promoted as drilling mukaddams which is Category VI. The Management claims that it had exercised its discretion rightly in this behalf having regard to the proficiency and the literacy qualifications of the claimants. With regard to the 11 claimants under Issue II, it is stated in the counter of the Management that these claimants did not at any time work as Junior Drillers. It is pointed out that whenever any of them was asked to work in a higher category if he was literate, he was paid the appropriate acting allowance. It is pointed out that, just as in the case of the claimants under Issue I, the claimants under Issue II were promoted as drilling mukaddams and were placed in Category VI. It is pointed out that there was no designation as shift Incharge in the Prospecting Department. It is denied that the Management had in any way harassed or victimised the claimants under either issue. The case of the Management is that the claims of the two sets of claimants were not justified.

4. Five witnesses, W.Ws. 1 to 5, were examined on the side of the claimants. Only one of them Vadnala Kistiah (W. W.3) is a claimant, he being the second claimant under Issue I. Two witnesses, M. Ws. 1 and 2, were examined on the side of the Management. M. W.1, S. N. Murthy, is the Drilling Engineer of the Company at the Bellampalli Group of Mines. Exs. W1 and W2 were marked on the side of the Management. I would refer to the relevant documents during the course of discussion.

5. *Issues I and II.*—It is convenient to discuss and dispose of these two issues together to avoid repetition of reference to evidence. There are three claimants under Issue I and eleven claimants under Issue II. Those under Issue I claim that having regard to the duties performed and the responsibilities shouldered by them, they are entitled to the grade of Assistant Drillers, that grade being Rs. 48—100. The eleven claimants under Issue II claim that having regard to the duties performed and the responsibilities shouldered by them, they were entitled to the grade of Rs. 43—82. This grade is that of the Junior Drillers, although this designation is not specified under Issue II just as the designation Assistant Drillers is set out in Issue I. The onus of proof under both the issues is upon the claimants. The claim put forward is not as such one for promotion. The claim is solely rested upon the assertion that the duties performed and the responsibilities shouldered are actually those of Assistant Drillers and of Junior Drillers respectively. Whether such are the duties performed and the responsibilities shouldered by them, is a question of fact. If the answer is in the affirmative in respect of both sets of claimants, then the finding under Issue I would be that the three claimants thereunder were entitled to the grade of Assistant Drillers and that the eleven claimants under Issue II were entitled to the grade of Junior Drillers.

6. It is for the claimants to prove that the duties performed and the responsibilities shouldered by them were such that they were entitled to the grade of Assistant Drillers or to the grade of Junior Drillers as the case may be. To start with, the statement of claims should specify what were the duties performed and the responsibilities shouldered either by the first set of claimants or by the other set of claimants. Except to state under Issue I that the three claimants thereunder have been working as Assistant Drillers in the Prospecting Department "since past several years", that they were in fact designated as Assistant Drillers on the records of the Company and that they had been continuing to perform the duties of Assistant Drillers "as usual", there is no pleading in the statement of claims as to what were the duties performed, nor indeed as to what were the responsibilities shouldered, so as to entitle them to the grade of Rs. 48—100 which is the grade

of Assistant Drillers. Similar is the hiatus in the pleading in respect of the claimants under Issue II. It is stated therein in respect of both sets of claimants that the Management had been "harassing and victimising these workmen". Except this bald allegation, there is no hint or suggestion in the statement of claims why the Management should be so motivated. The same is the position during the enquiry at which two witnesses were examined for the Management and five witnesses were examined for the claimants. There is no question is of either harassment or victimisation. What remains to be seen is if the claimants had let in evidence in support of the claims as embodied in Issues I and II.

7. The Management's witnesses were examined first. The witnesses for the claimants were examined later. M. W.1, S. N. Murthy, is the Drilling Engineer at the Bellampalli group of mines. He is the Head of the Prospecting (including drilling) Department of the Company at Bellampalli. The witness said that under him there is a Head Driller, three Assistant Drillers and 24 Junior Drillers for the entire Bellampalli group of mines. The witness testified about the duties of an Assistant Driller. They are as follows: He is responsible for the maintenance of one drill and some times of more than one drill. He maintains the progress of the drill. He ensures good recovery in the coal seam. He maintains the log sheet in respect of the progress of drill. He arranges and takes the coal samples in bags. He attends to the maintenance and break-down of drills and pumps. He arranges the shift for the Junior Drillers and the drilling Mukkadam. As to what the duties of a Junior Driller are, the witness mentioned them to be these. He is in charge of a shift consisting of himself, one mukaddam and five to six drilling mazdoors. A mukaddam is like a mistri in charge of the gang of drilling mazdoors. The Junior Driller attends to minor break-downs and repairs in respect of the shift drill and pump. He makes entries in the shift log book. He ensures good coal recovery. He indents for materials such as lubricants, cutting bits and other requirements.

8. It will be noted that the case of the Management in the counter is that all the 14 claimants were drilling mukaddams. M. W. 1 specified the duties of a drilling mukaddam to be these. He works under the Junior Driller as per the latter's instructions. The drilling mukaddam attends to the greasing points and other lubricating points. He arranges for the core barrel and bit to be kept ready. He checks the water storage in the sump (water tank). He arranges for the baling of water from the water carts. He arranges for the removal of the sludge from the storage tanks. He does all this with the help of drilling mazdoors. M. W.1 added that the drilling mukaddam is not held responsible for the daily progress.

9. The witness went on to state that any of the claimants were not doing the work of either Assistant Drillers or of Junior Drillers and that they had always been doing the duties of drilling mukaddams. The witness narrated the origin of the category called the Junior Drillers. Prior to the year 1961 there were no Junior Drillers. In that year the Management sanctioned six posts of Junior Drillers. Six drilling mazdoors were promoted to those posts on seniority-cum-efficiency basis. That was in the year 1961. At that time the Company did not have drilling mukaddams. Six posts of drilling mukaddams were created. At the same time six new posts of Junior Drillers were created. Subsequent to the year 1961 apprentice drillers were recruited on a monthly stipend of Rs. 60. They had training from 12 to 18 months. After passing departmental tests, they were appointed as Junior Drillers. In course of time the present strength of 24 Junior Drillers was reached. Ex. M-1 is a typical office order for appointment as apprentice driller. The minimum educational qualification for an apprentice driller was a pass in Matriculation. The witness stated that even in the year 1961 the cases of the 14 claimants were considered for promotion and that they were found not suitable. The witness admitted in cross-examination by Mr. S. Narayan Reddy that there is no record as such to the effect that the cases of the 14 claimants were considered for promotion as Junior Drillers. Be that as it may, it is for the claimants to show that they were performing such duties and shouldering such responsibilities as to enable them to claim the grade of Assistant Driller or that of a Junior Driller. Although Mr. S. Narayan Reddy had put M. W.1 through lengthy cross-examination, he did not suggest to the witness any particular duties performed or any particular responsibilities shouldered by either set of claimants so as to enable them to claim Assistant Drillers grade or the Junior Drillers grade as the case may be. Mr. Narayan Reddy drew the attention of M. W.1 to Exs. W1 and W2. Nothing turns upon either document so far as concerns the case of the claimants. Ex. W1 dated 13th April 1966 is the report of the Regional Labour Commissioner (Central) reporting failure of conciliation proceedings in respect of these claimants. It is stated therein that the claim put forward by the claimants, it being the same as they now advanced before this Tribunal, was rebutted by the Management. Ex. W2 dated 15th March 1963 is order passed by the Drilling Engineer (M. W.1) making certain postings in certain shifts. M. W.1 explained that Ex. W2 is in respect of posting of Junior Drillers and drilling mukaddams, and that he had posted a Junior Driller in the first shift and a mukaddam in the second

shift. Ex. W2 is in respect of four separate drills. In the first shift of the first drill N. Krishnaswamy is posted and in the second shift Gulam Jaffar is posted. Ex. W2 is addressed to the Junior Engineer, N. Krishnaswamy. Gulam Jaffar is not among the claimants. Hanmanla Muttiah, Mohd. Afzal and Nara Seetharam are posted in the second shift of the second, third and fourth drills respectively. Hanmanla Muttiah is the first claimant under Issue I and Mohd. Afzal and Nara Seetaram are two of the eleven claimants in Issue II. Mr. S. Narayan Reddy did not suggest to M. W.1 that the posting of Hanmanla Muttiah, Mohammad Afzal and Nara Seetaram in the second shift as stated above was as Junior Drillers. The testimony of M. W.1 would therefore stand that the three persons referred to were posts as drilling mukaddams.

10. Next we have the documents filed on the side of the Management. Ex. M1 dated 21st March 1962 is an office order appointing one Vasudevan as apprentice driller. That document has been filed as an example. Exs. M2, M3, M4 and M5 are the paysheets for various periods for daily raters, wages being paid weekly. In none of them is any of the claimants described as either an Assistant Driller or as a Junior Driller. Ex. M6 dated 10th March 1961 is a memorandum of settlement. As per clause 2 therein a certain number of workers had been promoted as Junior Drillers in the grade of Rs. 43—82. None of them is among the claimants here. M. W.1 stated that progress reports and sketches are submitted by the Junior Drillers and not by the drilling mukaddams. Ex. M7 is an instance of a sketch submitted by a Junior Driller, one Mohd. Ali. Ex. M8 is an instance of progress report submitted by Junior Driller, one Mohd. Saifuddin. Ex. M9 is a log book or field book prepared by Junior Drillers Prasada Rao and Natraj. The witness said that the field book is checked by the Assistant Driller or the Head Driller and that it gives the formation of the strata and the seams and sets out any technical difficulties that the Junior Drillers may have encountered and the measures taken to overcome the same. The witness added that at any time any such report or record or field book was not submitted by any of the claimants. The witness further stated that when drilling mazdoors make applications for leave, they do so through the Junior Drillers and that any applications were not sent through any of the claimants. Ex. M10 series which are leave applications are filed to show the same.

11. The other witness for the Management is V. Veerabhadram (M. W.2). He is a senior Head Driller. This witness stated that upto the year 1961 the 14 claimants were drilling mazdoors, that in that year six of them were promoted as drilling mukaddams and that the remaining eight were also promoted as drilling mukaddams in the years 1962 and 1963. The witness added that the duties they were performing were checking the lubricants of the engine and pumps under the instructions of the Junior Drillers, and that they have to extract work from the drilling mazdoors. The witness stated that any of the claimants was not at any time asked to work as Junior Driller, and that the claimants in Issue I did not at any time work as Assistant Drillers. Lastly, the witness added that the duties performed by the three claimants in Issue I are not different from the duties performed by the eleven claimants in Issue II, and that none of the 14 claimants maintain record of the progress of drilling. The witness was taken through lengthy cross-examination by Mr. S. Narayan Reddy for the claimants. He elicited the history of the various drills. Mr. Narayanreddy did not suggest to the witness about any particular duties performed or responsibilities shouldered by any of the 14 claimants so that the first set of claimants could claim the grade of Assistant Drillers and the other set the grade of Junior Drillers. As I pointed earlier, any such suggestion was not made in the cross-examination of M. W.1, either, although he had specified what were the duties of the Assistant Drillers, of the Junior Drillers and of the drilling mukaddams, and had, besides, categorically stated that none of the 14 claimants had at any time performed the duties of either the Assistant Drillers or of the Junior Drillers.

12. Next we have the testimony of the five witnesses for the claimants. W. W. 1, N. Krishnaswamy, is an Asst. Driller. He said that the three claimants under Issue I were Incharge drillers in the year 1956 and that at that time they were designated as Assistant Drillers. Referring to the claimants under Issue II the witness stated that they had been working as Shift Incharges taking charge from each other by rotation. The witness said that the 14 claimants had been looking after minor break-downs themselves because the Junior Drillers would not be able to handle the break-downs as they would be quite new to the job. It is to be inferred from the above that there was also a Junior Driller in the shift in which each of the claimants claim to have been the Shift Incharge or Driller Incharge. It is one thing to say that a drilling mukaddam by reason of his experience would be able to handle a minor break-down in spite of a Junior Driller being there, but certainly it is the responsibility of the Junior Driller to handle the break-down which might necessitate calling for assistance from Assistant Driller or the Head Driller. Handling of a break-down is team work in which the particular team attached to a shift headed by the Junior Driller would participate. It does not mean that thereby a drilling

mukaddam could claim to be either an Assistant Driller or a Junior Driller. If one may say so, even the drilling mazdoor could, by the same token, claim to have been performing the duties of a Junior Driller, but of course that would not be permissible. The duties and responsibilities are ear-marked, and the drilling mukaddams and the drilling mazdoors have to assist the Assistant Driller or the Junior Driller in carrying out his duties and responsibilities. W. W.1 said "there is no difference between the work done by the fourteen claimants and the work done by the newly appointed Junior Drillers". If there is no such difference as stated above, then there is no reason why the three claimants under Issue I should claim the grade given to the Assistant Drillers. Lastly, the witness stated that the three claimants under Issue I are described as Assistant Drillers in the pay sheets. I have already drawn attention to the pay sheets, and I find that any of the claimants under Issue I are not described as Assistant Driller in the pay sheets. The witness said in re-examination that any Junior Driller was not in the shift when any of the claimants was in charge of the shift. Obviously the reason why the witness was made to say so in re-examination is that if there was a Junior Driller in the same shift in which there was any of the fourteen claimants, then the latter could claim to be the Shift Incharge or the Driller Incharge. I have already drawn attention to the statement of this witness in his chief examination that the fourteen claimants look after the minor break-downs themselves because Junior Drillers would not be able to handle break-downs as they would quite new to the job. From that it is easily inferred that there is a Junior Driller in the shift, and that there is no question of a Junior Driller not being there when any of the fourteen claimants is there.

13. W. W.2. G. Rajanna, is a Junior Driller. He was appointed as apprentice driller in the year 1962 and was posted as Junior Driller from 1st May 1963. The witness said that during the period of his training he was not put in charge of a shift. It will be noticed that M. W.1 had said that the posting of apprentice drillers to the drill shifts and making them handle the drills, was itself part of training. That would be rightly so. Learning to operate a drill could not be in a class room alone. The apprentice has necessarily to be posted to the drill itself, and naturally he will learn his job there by handling the drill. The reason why W. W.2 and that during the period of his training the apprentice driller is not put in charge of a shift is so that it could be said that the claimants were in charge of such shifts. In fact the witness said that the fourteen claimants were working as shift Incharges in rotation. But, as I said, an apprentice driller has to learn work by himself operating the drill. He would not doubt be assisted by the drilling mukaddams, but by reason of rendering such assistance the drilling mukaddams cannot say that they themselves were shift in-charges. The witness said in cross-examination that from the time he knew, i.e., from the year 1962, the three claimants in Issue I were doing the duties similar to the duties done by the eleven claimants in Issue II. If that be so, I do not see why the grade of Assistant Drillers should be claimed for the claimants under Issue I while only the grade of Junior Drillers is claimed for the claimants under Issue II.

14. W. W.3, Vадnala Kistiah, is the second claimant under Issue I. He stated that he had entered the service of the Company as Mazdoor 20 years ago in the Prospecting Department, that he was made Assistant Driller in the year 1956 and that, while so, he was placed in Category IV. The witness stated that the two remaining claimants under Issue I were also made Assistant Drillers in the year 1956. He claimed that as Assistant Driller he was operating the drill and undertaking its repairs. Referring to the claimants under Issue II, the witness said that they all worked as drillers, that for each shift there is a driller and that above him there is an Assistant Driller. Referring to both sets of claimants, the witness said that they were making progress reports to the Head Driller, that if a drill went out of order they would set it right, that they were making muster entries in respect of mazdoors working in a shift, that they receive leave applications from mazdoors and pass them on to the Head Driller, that the driller apprentices were learning work from them and that, while so, the drilling apprentices were not in charge of the drills. For the first time we have in the evidence of W. W.3 as to what were the duties performed and the responsibilities shouldered by the claimants. Any such suggestion was not made in the cross-examination of M. W.1 or in the cross-examination of M.W.2. the former being the Drilling Engineer. In cross-examination by Mr. Shyam Mohan, the representative of the Company, W. W. 3 said that he was illiterate when he entered the service of the Company, that four or five years later he studied upto 4th standard, that from 17th June, 1961 he was given Category VI from Category IV and that upto 1961 he was given allowance for acting as mukaddam. The witness admitted that only Matriculates were being taken as driller apprentices from the year 1962. That was the minimum educational qualification that was prescribed for Junior Drillers who, if they are proficient enough, would in course of time be promoted as Assistant Drillers. The reason for prescribing that minimum educational qualification was that the Junior Drillers should, among others, be

able to write the progress reports, his other duties being those specified by the Drilling Engineer, M. W.1. One who is illiterate or one who just had reached upto the 4th standard like W. W.3, would not be able to perform those duties. W.W.3 said that he could write progress sheets, that he was writing them in Telugu and that they were being rendered into English by some one. Writing of a progress report in Telugu would be quite different from writing it in English. That being so, the claim by W. W.3, that he had been working as an Assistant Driller cannot be correct. The witness said in cross-examination that he and the other claimants have been drawing wages in Category VI, but that he did not know if that was a drilling mukaddam's wage. Since he was drawing that wage regularly he ought to know that it was drilling mukaddam's wage and not the wage of an Assistant Drillers. Lastly, the witness said at the end of his cross-examination that the claimants under Issue I do the same kind of work as the claimants under Issue II, whereas admittedly the duties and responsibilities of an Assistant Driller are different from and superior to those of a Junior Driller. Since the witness stated that all the 14 claimants do the same kind of work, it would only mean that they were all performing the same duties, viz., that of drilling mukaddams.

15. W. W.4, Venkati, is a mazdoor in the Prospecting Department from the year 1961. He said he knew the claimants in both the issues, that they were working as Shift Incharges, that there was no Junior Driller in any shift and that there was no drilling mukaddam in any shift. I have already pointed that an apprentice driller would learn work by working the drill and that after completion of his training he would be posted in charge of a drill. To say, as does W.W.4, that there was no Junior Driller in charge of the shift would not be correct.

16. W. W.5 is Mohammad Ishaq. He retired from the service of the Company in the year 1964 as head driller. He stated that in the year 1956 the three claimants (witness gave their names) under Issue I and Seetaram and Mallaiah who are two of the claimants under Issue II, had been promoted from mazdoors in Category II to drillers in Category IV, and that they were working as such upto the time he retired. The witness added that subsequently as the number of drills increased the other claimants under issue II were similarly promoted as drillers from mazdoors. The witness said that the claimants had been making reports in Telugu. Then the witness stated as follows:—

There was only one mukaddam for all the drills put together. He was Ramatenki Lachu. He was not operating the drill. A mukaddam is not meant for operating the drill. He has to take work from the mazdoors. Any of the claimants did not work as mukaddam. They all had been drillers.

In the evidence we had so far, there is the admitted fact that there has to be a drilling mukaddam per shift with nearly half a dozen drilling mazdoors, besides whoever is in charge of the shift, either a Junior Driller or an Assistant Driller. If, as stated above by this last witness for the claimants, any of the claimants did not work as mukaddam, then the question arises as to who were the mukaddams. To say that there was only one mukaddam for all the drills put together would not be right because that would be neither feasible nor possible. As explained by M. W. 1, a mukaddam is a sort of maistri over the drilling mazdoors and takes work from them. Obviously, W. W.5 was talking at random. At the time of the implementation of the Mazumdar Award in the year 1956, he was an Assistant Driller, and he was placed in Category IX of that Award. That is what the witness had said earlier in evidence-in-chief. It will be noticed that the claim of the claimants under Issue I is that they had been made Assistant Drillers in the year 1956 as stated by W. W. 3. If the claimants under Issue I were working as Assistant Drillers at that time, then they too would have been placed in Category IX just as W. W. 5 was so placed. This is what W. W. 5 said in his cross-examination:—

But any of the claimants were not promoted as Assistant Drillers. They were drillers and we used to call them as Assistant Drillers.

W. W.5 and others like him might have called any of the claimants as Assistant Drillers, but it is clear that any of them could not have been assistant drillers. The testimony of W. W. 5 is not helpful to the claimants.

17. From onward the year 1961 the Management had been taking apprentice drillers with minimum educational qualification of Matriculation. M.W. 1 had testified that drilling mazdoors who had such a qualifications or who had later acquired it, were appointed as Junior Drillers. The witness had said that the cases of these claimants also had been considered for promotion, but that they were found wanting. The case of the Management is that all the 14 claimants had been working as only drilling mukaddams. It is for the claimants under Issue I to prove that the duties performed and the responsibilities shouldered by them entitled them to be given the grade of Rs. 48—100 which is the grade of Assistant

Drillers. The case of the claimants under Issue II is that the duties and the responsibilities shouldered by them entitled them to be given the grade of Rs. 43—82 which is the grade of Junior Drillers. I am satisfied that both sets of claimants have failed to prove that such were the duties performed and the responsibilities shouldered by them. In the state of evidence, both documentary and oral, which I have before me, my finding under Issue I is that the claimants thereunder are not entitled to the grade of Assistant Drillers i.e., Rs. 48—100, and my finding under Issue II is that the claimants thereunder are not entitled to the grade of Rs. 43—82.

AWARD passed accordingly.

Given under my hand and the seal of the Tribunal, this the 5th day of August, 1968.

(Sd.) M. NAJMUDDIN,
Industrial Tribunal.

APPENDIX OF EVIDENCE

Witnesses examined for:

Workmen:—

W.W.1: KRISHNASWAMI.

W.W.2: RAJANNA.

W.W.3: KISTIAH.

W.W.4: VENKATI.

W.W.5: ISSACK.

Employers:—

M.W.1: S. N. MURTY.

M.W.2: P. V. LAKSHADRAM.

Documents exhibited for workmen

Ex. W1: Minutes of conciliation proceedings held on 13th April 1966, before the Regional Labour Commissioner (C), Hyderabad.

Ex. W2: Postings of shifts dated 15th March 1967 by Drilling Engineer.

Documents exhibited for Employers

Ex. M1: Appointment order of Vasudevan as an apprentice driller dated 21st March 1962, issued by the employer Company.

Ex. M2: Pay sheet for the daily raters for the week-ends 4th February 1961 and 25th March, 1961.

Ex. M3: Pay sheet for coal cutters/fillers for week-ending 1st December 1962.

Ex. M4: Pay sheet for the daily rate workers in prospecting department for week-ending 16th October, 1963.

Ex. M5: Pay sheet for the daily rate workers for week-ending 2nd September 1964.

Ex. M6: Agreement dated 10th March 1961 arrived before the Regl. Labour Commissioner, Madras, at Kothagudium.

Ex. M7: Sketch prepared by Junior Driller.

Ex. M8: Reports submitted by the Junior Driller.

Ex. M9: Log book.

Ex. M10: Leave letters of some workers working in Prospecting Department for the year 1962.

Ex. M10 (a): —Do—

for the year 1963.

Ex. M10 (b): —Do—

for the year 1964.

Ex. M10 (c): —Do—

for the year 1967.

M. NAJMUDDIN,
Industrial Tribunal.

[No. 7(30)/66-L.R.II.]

S.O. 3166.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the New Standard Lodna Colliery, Post Office Jharia, District Dhanbad of Messrs New Standard Coal Company (P) Limited, 85/86, Stephen House, 4, Dalhousie Square East, Calcutta-1

and Messrs Madhavji K. Verma and Sons (P) Limited, New Standard Lodna Colliery, Post Office, Jharia, Distt. Dhanbad (the lessee) of the one part and their workmen of the other part which was received by the Central Government on the 12th August, 1968.

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR.**

Dated July 30, 1968.

PRESENT:

Sri G. C. Agarwala—Presiding Officer.

CASE REF. NO. CGIT/LC(R)(38) OF 1967 (JABALPUR TRIBUNAL)
CASE REF. NO. 80 OF 1964 (DHANBAD TRIBUNAL)

PARTIES:

Employers in relation to the New Standard Lodna Colliery, Post Office Jharia, District Dhanbad of M/s. New Standard Coal Company (P) Limited, 85/86, Stephen House 4, Dalhousie Square East, Calcutta-1, and M/s. Madhavji K. Verma and Sons (P) Ltd., New Standard Lodna Colliery, Post Office, Jharia, District Dhanbad (the lessee) of the one part.

Versus

Their workmen on the other part represented through Khan Mazdoor Congress, P.O. Jharia, District Dhanbad.

APPEARANCES:

For the employers—Sri D. Narsingh, Advocate, for New Standard Coal Co. (P) Limited and Special Officer, Sri K. C. Mukerji.
2. Sri M. P. Baliase for M/s. Madhavji K. Verma & Sons (P) Ltd.

For workmen—Sri Prasant Burman, Secretary, Khan Mazdoor Congress, Gandhi Road, Dhanbad.

INDUSTRY: Coal mine.

DISTRICT: Dhanbad (Bihar).

AWARD

By Notification No. 2/64/64-LR.II dated 17th July, 1964, the Ministry of Labour and Employment, Government of India, referred the following matter of dispute as stated in the schedule to the order of reference, to Dhanbad Tribunal for adjudication and from where it was transferred to this Tribunal *vide* Government Notification No. 8/25/67-LR.II dated 25th April, 1967.

Matter of Dispute

Whether the following workmen of the New Standard Lodna Colliery, Post Office Jharia, District Dhanbad, are entitled to be retained in service consequent on the transfer of the colliery management from Messrs New Standard Coal Company (P) Limited to Messrs Madhavji K. Verma and Sons (P) Limited; and if so, to what relief are the workmen entitled?

Tramers

1. Shri Bilkoo Mahto.
2. Shri Poshan Mahto.
3. Shri Prasadi Mahto.
4. Shri Khublal Shaw.
5. Shri Lalu Bhuinya.
6. Shri Akleshwar Mahto.
7. Shri Bhago Mahto.
8. Shri Hari Ram.
9. Shri Gaibe Pashwan.
10. Shri Ram Chandra Ram.
11. Shri Ram Chandra Mandal. I.
12. Shri Kishu Pashwan.
13. Shri Dhano Pashwan.
14. Shri Ramdhani Bhuinya.
15. Shri Sadik Mian.
16. Shri Ramawatar.
17. Shri Bineshwar Pashwan.
18. Shri Jago Pashwan

19. Shri Sanichar Ram.
20. Shri Jharc Ram.
21. Shri Kashi Mahte.
22. Shri Mahabir Bhuiyan.
23. Shri Sitanram Mahto.
24. Shri Mangal Bhuiyan.

Munshis

1. Shri Narayan Mukherjee.
2. Shri Manoranjan Chakravarty.
3. Shri Kishun Mahto.

2. It is necessary to give some history in the background of which this dispute has been referred. M/s. New Standard Coal Company (Private) Limited, to be hereinafter called, the Coal Company, is the owner of New Standard Lodna Colliery to be hereinafter described as Colliery. The affairs of this Colliery were far from satisfactory. There were disputes among Directors and wages to the workers were not paid in time. The Colliery, however, was closed by an order of the Regional Inspector of Mines under Sec. 22 of the Mines Act on or about 29th June, 1963. On application of some of the share holders of the Coal Company to the Hon'ble High Court, Calcutta, one Sri K. C. Mukerji, Bar-at-Law, was appointed as Special Officer on 3rd October, 1963 who is arranged as a party to this proceedings. The Special Officer was authorised to call a meeting of share-holders and after ascertaining the views of shareholders to take necessary steps for raising funds so as to pay the wages of the workers and dues of Government. He was authorised to negotiate with outsiders to lease the Colliery for a certain period of time. M/s. Madhavji K. Verma and Sons (P) Limited to be hereinafter called Verma Company, made an offer to run the Colliery on lease under certain terms and the offer was accepted by the High Court. Accordingly Special Officer executed an agreement for lease on 11th February, 1964 and put Verma Company in possession of the Colliery. This Verma Company started running Colliery and from Seam 13(b) the prohibitory order of the Mines Department was lifted. They employed certain workers. The Union, Khan Mazdoor Congress, complained to the Regional Labour Commissioner on 10th March, 1964 that the 24 Trammers and 3 Munshi namica in the schedule to the order of reference were not given employment. The conciliation failure report shows that during conciliation proceedings the Conciliation Officer made Special Officer, Shri K. C. Mukerji, as also the outgoing management parties to the proceedings. Verma Company contended that they had no material to check seniority and were trying their best to employ old workers. Conciliation, however, failed and then reference was made in due course on 17th July, 1964.

3. It may be mentioned that M/s Madhavji K. Verma and Sons (P) Ltd., Verma Company as such lost possession by an order of the High Court dated 25th August 1964 on an application of the share-holders. The High Court directed Special Officer to appoint Directors of Verma Company as Managers under him in order to operate and work the Colliery and at the same time to apply to all appropriate authorities including the Central Government and State Government for permission to grant a lease of Colliery to Verma Company in terms of agreement dated 11th February 1964. What happened subsequently is not clear but it appears that a Director of the Coal Company, Sri Pradip Basu, under the orders of the High Court had been made the Agent to work colliery under the Special Officer and an application was made in this Tribunal on the hearing rendered on 23rd March 1968 intimating the fact and seeking adjournment. Subsequently on behalf of the Coal Company and the Special Officer, an Advocate, Sri D. Narsingh, was engaged and represented them on the last date of hearing rendered on 16th July 1968.

4. After the reference and before transfer to this Tribunal, the Union, Verma Company, and the Special Officer filed the statement of claims before the Dhanbad Tribunal. A preliminary objection was raised that by reason of Sec. 448 of the Companies Act there could be no hearing and adjudication rendered by the Tribunal. After transfer to this Tribunal parties were directed to file relevant documents and the preliminary objection was overruled on 23rd December 1967. It was held that the appointment of Special Officer by the Hon'ble High Court was under Sec. 402 of the Companies Act as interim arrangement and there had been no winding up order so as to attract Sec. 446 of the Companies Act. The employers were directed to file their written statements on merits. Numerous adjournments were taken on behalf of the employers on one ground or the other. The Special Officer ultimately filed a written statement on 15th February 1968. Verma Company attempted to introduce a further written statement on the date of hearing but which was not permitted. Two documents, however, were filed by Verma Company, both being copies of orders of the Hon'ble High Court in the case. The Union filed affidavits of workmen, namely S/Sri Bilku Mahato (Sl. 1), Poshan Mahato (Sl. 2), Prasadi Mahato (Sl. 3), Akileshwar Mahato (Sl. 6), Ghago Mahato (Sl. 7), Hari Ram (Sl. 8), Gaibee Paswan (Sl. 9), Ram Chandra Ram (Sl. 10), Kishun Paswan (Sl. 12), Dhano

Paswan (Sl. 13), Bineshwar Paswan (Sl. 17), Sanichar Ram (Sl. 19), Jhari Ram (Sl. 20) and Manoranjan Chakravarty (Munshi) (Sl. No. 2). The substance of their affidavits was that they had been in old service from specified years and were getting wages at Rs. 30/- per week. It may be mentioned that the employers were directed to furnish a list giving names and addresses of Trammers and Munshis employed by them during their management and the period of employment of each. Verma Company did not furnish any but Sri D. Narsingh, Advocate, on behalf of the Coal Company, made a petition dated 4th July, 1968 intimating that from available records 7 Trammers and 2 Munshis were already in the employment of the present management. Their names are as follows:—

Trammers

1. Sri Khublal Shaw (Sl. 4)
2. Sri Ram Chandra Mandal I. (Sl. 11)
3. Sri Ramdhani Bhuiyan (Sl. 14)
4. Sri Sadik Mian (Sl. 15)
5. Sri Ramawatar (Sl. 16)
6. Sri Mahabir Bhuiyan (Sl. 22)
7. Sri Mangal Bhuiyan (Sl. 24)

Munshi

1. Sri Narayan Mukherjee (Sl. 1)
2. Sri Kishun Mahato. Sl. 3)

It was further stated that Sl. No. 13 Dhano Paswan covered by this reference has also figured in another case, reference No. 15/67 of Central Government Industrial Tribunal No. II at serial 35 and award of which has been published in the Gazette dated 15th June 1968.

5. Coming to the objections raised by the Coal Company it was first contended that the Union had not raised any dispute against the Coal Company and by reason of the *latest Hon'ble Supreme Court's* decision of *Sindhu Resettlement Corporation Ltd., vs. Industrial Tribunal, Gujarat* and others Workmen reported in 1968 (I) LLJ p. 834, there could be no valid reference, there having been no demand raised by the Union against the Coal Company. The objection is untenable. Workers were interested in getting employment and on their behalf the Union had approached the Conciliation Officer who had made the Special Officer and the outgoing management also parties to conciliation proceedings. Thus during the conciliation proceedings itself there was demand and industrial dispute. The facts are clearly distinguishable from the case of *Sindhu Resettlement Corporation (Supra)*.

6. Both set of employers, namely Coal Company and Verma Company are trying to shift the blame on the other and have not as a matter of fact said anything substantial regarding the merits of the claim. The terms of reference, however, are restricted to the fact whether the workers mentioned in the schedule are entitled to be retained in service consequent on the transfer of the Colliery management from the Coal Company to Verma Company. Thus transfer is assumed in the order of reference. The Tribunal is bound by the terms of reference and cannot go beyond the same as held by the *Hon'ble Supreme Court in Delhi Cloth Mills case reported in 1967 (I) LLJ p. 423*. That transfer was a temporary affairs and was not a legal transfer as no valid lease was executed is of no consequence so far as this case is concerned. Verma Company admittedly as such were in possession from February to August, 1964. At the time of reference they were managing the colliery and any order passed will bind them as also heirs and successors of the employers under Sec. 13(3) of the I.D. Act.

7. As far the merits of the controversy, transfer of management has been assumed in the order of reference. That being so, Section 25FF I.D. Act would be applicable. When workers are entitled to compensation as if retrenched on transfer there is no question to claim reinstatement also. The point came up for consideration in another case before the Central Government Industrial Tribunal No. II, Dhanbad, Case No. 15 of 1967, and by his award dated 21st May, 1968 the learned Tribunal has held that in respect of 301 workmen who also claimed to be retained in service consequent on transfer of management to Verma Company, the only relief which the workers could claim was of compensation under Sec. 25FF which could be computed by appropriate Labour Court in proceedings under Sec. 33-C(2) I.D. Act. The point was identical in that case as is before me and I see no reason to take a different view. It is not necessary to determine which of the employers would be liable for compensation. That point also can be considered and decided by the appropriate Labour Court.

Decision

The result is that there is no dispute for Trammers S/Sri Khublal Shaw (Sl. No. 4), Ram Chandra Mandal I (Sl. No. 11), Ramdhani Bhuiya (Sl. No. 14), Sadik Mia (Sl. No. 15), Ramawatar (Sl. No. 16), Mahabir Bhuiyan (Sl. No. 22), Mangal Bhuiyan (Sl. No. 24) and Munshis S/Sri Narayan Mukherjee (Sl. No. 1) and Kishun Mahato (Sl. No. 3) being already in employment. Sl. No. 5, Lalu Bhuiya, Sl. No. 18, Jago Poswan, Sl. No. 21, Kashi Mahato and Sl. No. 23 Sitanram Mahato remained absent. They have not come to claim any relief. The Union has confined the case for only those whose affidavits were filed. They are S/Sri Bilku Mahato (Sl. No. 1), Poshan Mahato (Sl. No. 2), Prasadi Mahato (Sl. No. 3), Akileshwar Mahato (Sl. No. 6), Ghago Mahato (Sl. No. 7), Hari Ram (Sl. No. 8), Gaibee Paswan (Sl. No. 9), Ram Chandra Ram (Sl. No. 10), Kishun Paswan (Sl. No. 12), Dhano Paswan (Sl. No. 13), Bineshwar Paswan (Sl. No. 17), Sanichar Ram (Sl. No. 19), Jhari Ram (Sl. No. 20) and Manoranjan Chakravarty (Munshi) (Sl. No. 2). It is held that they are not entitled to be retained in service consequent on the transfer of the management but can claim retrenchment compensation under Sec. 25FF. No order for costs.

(Sd.) G. C. AGARWALA,
Presiding Officer,
30-7-1968.
[No. 2/64/64-LR.II.]

S.O. 3167.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Bhagaband Colliery of Messrs Borea Coal Company Limited, Post Office Bhagaband, District Dhanbad and their workmen, which was received by the Central Government on the 12th August, 1968.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT (NO. 1), DHANBAD**

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

REFERENCE No. 59 OF 1967

PARTIES:

Employers in relation to the Bhagaband Colliery of Messrs Borea Coal Company Limited, Post Office Bhagaband, District Dhanbad.

Vrs.

Their Workmen

PRESENT:

Shri Kamla Sahai, *Presiding Officer.*

APPEARANCES:

For the employers.—Shri J. L. Sinha, Group Personnel Officer.

For the workmen.—Shri P. B. Choudhury, Executive Member.

STATE: Bihar

INDUSTRY: Coal.

Dhanbad, the 31st July, 1968

AWARD

Having formed the opinion that an industrial dispute exists, the Central Government, by its order No. 2/59/64-LR.II, dated the 11th January, 1965, made this reference under section 10(1)(d) of the Industrial Disputes Act, 1947 to this Tribunal for adjudication of the dispute described in the schedule given below:

SCHEDULE

"Whether the management of the Bhagaband Colliery of Messrs Borea Coal Company Limited, Post Office Bhagaband, District Dhanbad, was justified in dismissing Shri Narayan Chandra Singh, Mining Sirdar, with effect from the 7th June, 1962? If not, to what relief is the workman entitled?"

2. It was registered by this Tribunal as Reference No. 12 of 1965. By the Ministry's order No. 8/25/67-LR.II dated the 16th September, 1967, it was transferred to the Central Government Industrial Tribunal at Jabalpur, where it was numbered as Reference No. 133

of 1967. The Ministry has, by its order No. 8/25/67-LRII dated the 24th November, 1967, re-transferred the reference to this Tribunal and the number given to it here on this occasion is Reference No. 59 of 1967.

3. The concerned workman, Shri Narayan Chandra Singh, was working as a Mining Sirdar in Bhagaband Colliery. The Manager gave him an oral order to go with him (the Manager) to the Aralgoria section of the colliery for the purpose of supervising the work of sinking a shaft there but Shri Singh refused to go. The Manager (Shri L. S. Ghate) then followed up his verbal order by a written order dated the 7th April, 1962, transferring Shri Singh to Aralgoria in order to supervise the sinking work there. Shri Singh refused to obey that order also and wrote a letter to the Manager, asking various questions including the reason for his transfer. As the order of transfer was passed, Shri Singh's attendance was to be booked at Aralgoria. He reported for duty at his old place on the 10th April, 1962 but the attendance clerk told him that his attendance would be noted at Aralgoria surface. Shri Singh continued to disobey the order of transfer. Chargesheet No. 63 dated the 12th April, 1962 (Ext. M5) was, therefore, drawn up against him. The charge stated:—

"You are charged under para 27(19) and Coal Mines Regulation No. 38 for violation of Mines Act and Regulations. In that you were instructed to go and supervise the sinking of Aralgoria pit with immediate effect. But as yet you have not reported for duty at Aralgoria pit as directed. Explain."

4. The charge could not be served through a peon book and hence it was sent to Shri Singh by registered post. On the 17th April, 1962, he received chargesheet No. 63 as well as the notice, fixing the enquiry for the 23rd April, 1962. He sent a reply (Ext. M6) to the chargesheet on the 20th April, 1962 and attended the enquiry on the 23rd April. He, however, left the place of enquiry. The management's case is that he left the place, saying that he would not participate in the enquiry until he was re-transferred to his old place. The workman's case is that he left the place because the enquiring officer asked him to give his own statement first. In any case, the management decided to give him another chance. He had gone home, leaving an application for leave not on proper form but on plain paper (Ext. W. 49). The manager sent him a letter (Ext. M8) at his home address dated the 8/9th May, 1962, asking him to appear on the 15th May, 1962 for the enquiry into the chargesheet issued against him. The workman received this letter but his case is that he sent a letter (Ext. W. 54) on the 14th May, 1962, saying that he could not come to the colliery before the 19th or 20th May. The management's case is that this letter is completely fabricated and that it was never received in the colliery office.

5. The workman did not attend the enquiry on the 15th May and the Enquiring Officer, Shri S. D. Pathak, held the enquiry *ex-parte* on that date.

6. On the basis of the enquiry report, a letter (Ext. M 10) dated the 1st June, 1962 was issued to the concerned workman, dismissing him from service with effect from the 7th June. As reference No. 87 of 1961 was pending, the management filed an application under section 33(2)(b) of the Industrial Disputes Act on the 1st June, 1962 for approval of Shri Singh's dismissal. This was registered as application No. 87 of 1962. The application was contested before the Tribunal. On a consideration of the entire evidence before it, the Tribunal, by its order dated the 27th September, 1963, allowed the application and granted approval to Shri Narayan Chandra Singh's dismissal.

7. The union, Colliery Staff Association, raised a dispute in connection with the dismissal. The matter went to the Government but, by their letter No. 2/59/64-LRII dated the 19th September, 1964 (Ext. M 30), signed by Dr. B. R. Seth, the then Deputy Secretary of the Ministry of Labour and Employment, they said that they did not consider the dispute relating to the alleged wrongful dismissal of Shri Narayan Chandra Singh, Mining Sirdar "fit for reference to an Industrial Tribunal for adjudication because the workman concerned was dismissed for proved misconduct". As I have said, however, they made the present reference in the same connection on the 11th January, 1965.

8. The workman's case as put by the union is that he is an active member of the Association, that the Management is not favourably disposed towards the Association and makes serious attempts to harrass and victimise its members and that, for the same reason, the management has been victimising Shri Singh. The Association's case further is that Shri Singh made a report dated the 6th April, 1962 against some officers of the colliery and that that was the reason why the Manager passed an order of transfer against him which was communicated to him on the 9th April. The workman demanded clarification in writing why he was stopped from work and virtually suspended with effect from the 10th April without any valid order of suspension. Its case further is that chargesheet was issued against the workman, that the 23rd April, 1962 was fixed for enquiry, that the workman received a telegram from his house informing him that the marriage ceremony of his daughter had been fixed for 6th May, 1962, that the workman submitted an application for leave to the Manager, attaching the telegram to it, that he then went home, that

he received a registered letter at his house on the 12th May, 1962 informing him that the enquiry had been fixed for the 15th May, that as he was not free from the responsibilities of the marriage ceremony" he wrote a letter dated the 14th May, 1962 for adjournment of the enquiry to the 20th May, that he accordingly came to the colliery on the 19th May and reported his arrival to the Manager, that there was no response from the Manager or Welfare Officer, and that he then raised a dispute through the Association before the Conciliation Officer (C), Dhanbad, on the 26th May.

9. The Association's case further is that the management then issued a letter dated the 1st June, terminating the workman's service from the 7th June, that the conciliation proceeding could not go on because the management stated that it had filed an application for approval of dismissal under section 33(2)(b) of the Industrial Disputes Act on account of the pendency of reference No. 87 of 1961, that the Tribunal ultimately granted approval of dismissal under section 33(2)(b) on the 27th September, 1963, that the Association again raised a dispute before the Conciliation Officer about the workman's dismissal, that the allegation made in chargesheet No. 63 dated the 12th April, 1963 were false and frivolous, that the order of transfer was prejudicial to the workman and that the order of dismissal of the workman was bad and liable to be set aside.

10. The management's case is that the workman did not submit a letter on the 6th April but he actually submitted that letter on the 8th April after ante-dating it, that the management has full jurisdiction to transfer a workman and to place him wherever it thinks that he would be most useful, that the workman was not suspended from the 10th April but, because he was transferred to Aralgoria surface, his attendance was being booked at Aralgoria surface instead of his old place, that the workman attended the enquiry on the 23rd April but went away saying that he would not participate in the enquiry until he was re-transferred to his old place, that the workman did not file his application for leave in proper form as he should have done, that the workman's statement that he sent a letter dated the 14th May to the Manager is false, that the enquiry was rightly held *ex-parte* on the 15th May, 1962 because the workman did not appear nor did he send any communication on or before that date, praying for adjournment and that the workman's case that he had a clean service record is wrong because he was chargesheeted and punished several times previously. The management's case further is that it does not victimise any workman because of the union which he joins and that the workman concerned has also not been victimised.

11. The following points may be formulated for consideration in this case:—

- (i) Why did the concerned workman leave the place of enquiry on the 23rd April, 1962?
- (ii) Did the concerned workman send the alleged letter (Ext. W 54) on the 14th May and did the company receive it? Was the enquiring officer justified in holding the enquiry *ex-parte* on the 15th May, 1962? Has there been any infringement of the rules of natural justice in holding the enquiry?
- (iii) Was the order of transfer passed against Shri Narayan Chandra Singh *malafide* and was he justified in all the circumstances of this case in refusing to obey that order?
- (iv) Is this a case in which the management has victimised the concerned workman?
- (v) In the facts and circumstances of this case, was the management of the company justified in dismissing Shri Narayan Chandra Singh with effect from the 7th June, 1962?

Points (i) & (ii)

12. I take up these points together for the sake of convenience. Shri Singh has examined himself before me as WW2. He has stated in his evidence that he attended the enquiry on the 23rd April, that the enquiring officer asked him to give his statement first but he told him that he should give his statement first and that no enquiry was actually held on that date.

13. In connection with the enquiry of the 23rd April, the Enquiring Officer has said in his report dated the 24th April [Ext. M9(g)] that Shri Singh came into the Manager's office at the time of enquiry, that the charge was read over to him and he was asked to give his statement whereupon he said, "the enquiry will be held later. First allow me to go to my old job. I will not attend the enquiry". The enquiring officer has added that, after saying what I have just quoted, Shri Singh left the place abruptly. There is no reason to suppose that the enquiring officer has made an incorrect statement. I am satisfied that the reason why Shri Singh left the place of enquiry was that he made this as a condition of his attendance at the enquiry that he should first be re-transferred to his old job.

14. Shri Singh filed an application for leave because he received information that his daughters' marriage was fixed for the 6th May. He has said in his evidence before me

that he could not file it in proper form because Shri K. P. Banerjee, Purusattam Prasad, Panchanan Dey and Harihar Chatterjee did not give him the form of application for leave. In his cross-examination, he has admitted that all these clerks are his fellow members of the Colliery Staff Association. He has also admitted that he did not mention in his application for leave that these clerks did not give him the proper form of application. In the circumstances it is difficult to accept his explanation for not filing his application for leave in proper form. His application was, therefore, refused. In any case, however, he did not give in that application the period for which he desired to be on leave.

15. Admittedly he received on the 12th May the notice informing him that enquiry would be held into his chargesheet on the 15th May. He was asked in cross-examination before me why he did not send a reply on the 12th and he replied that he received the letter after the post office was closed. When asked why he did not send his letter on the 13th, he said that the reason was that he was busy with the arrangements of his daughters' marriage. It is difficult to see how he could be so busy on the 13th when the marriage had already been performed on the 6th May. He was asked why he did not send a telegram and his reply was that he might not have had any money. This reply is rather peculiar because it was he alone could say whether he had money or not. He admitted that whenever he sent letters to the Manager, he sent them by registered post. When asked why he sent the letter dated the 14th May under certificate of posting, he again answered that he may not have had sufficient money on account of the pending marriage. Thus he again avoided to give a definite reply. On a consideration of these facts, I hold that he did not write any letter on the 14th May and that its alleged copy is a fabrication. Surely, he would have at least sent a telegram on the 12th May or, latest, on the 13th May to the management for postponement of the enquiry if he wished to participate in it. The union's case is that the management received the letter dated the 14th May on the 16th. Thus, even if Singh had posted a letter on the 14th, it could not reach the management in time. It is clear that the enquiring officer was fully justified in holding the enquiry *ex-parte* on the 15th May when Shri Singh did not appear to attend it and did not even send any communication, asking for postponement of the enquiry.

16. No action of the enquiring officer has been brought to my notice which could be treated to be an infringement of any rule of natural justice. It is manifest, therefore, that there was no infringement of those rules and the enquiry must be held to have been held properly.

Point (iii)

17. The enquiring officer, Shri S. D. Pathak, recorded the statements of Shri Purusattam Prasad [Ext. M9(a)]; Shri Bachhulal, Attendance Clerk at Aralgoria Sinking [Ext. M9(b)]; Shri S. K. Sarkar, Assistant [Ext. M9(c)]; Shri L. S. Ghate, Manager [Ext. M9(d)]; Shri K. P. Banerjee, Clerk Grade III [Ext. M9(e)] and Shri Sakaldip Pandey [Ext. M9(f)] on the 23rd April, 1962. He then drew up his report [Ext. M9(g)] on the 24th April, 1962.

18. Being ordered to hold further enquiry on the 15th May, he recorded the statements of several witnesses on that date also. He first examined the Manager, Shri L. S. Ghate. He took up each of the points raised by the concerned workman in his reply [Ext. M6] and refuted them one by one. In paragraph 11 of Ext. M6, Shri Singh stated that the management had no intention to make a proper enquiry into the allegation made by him in his letter of the 6th April, 1962 because, otherwise, a summary order of immediate transfer would not have been passed against him. Shri Ghate has stated before the enquiring officer in his statement [Ext. M9(i)] on the 15th May in reply to this allegation that the letter was ante-dated by the workman after he had been transferred to Aralgoria and he had been informed that his attendance was being recorded at that place. Shri Singh has stated in his evidence in this Court that he took the letter [Ext. M9(p)] dated the 6th April, 1962 to the Manager who asked him to go to the Welfare Officer who, in his turn, asked him to take it to Gouri Babu, despatch clerk, and he accordingly handed it over to Gouri Babu. The date of receipt of the letter on the stamp of receipt put on it is 9th April, 1962. All that has been stated in the letter is that the mine in which Shri Singh was deputed "is full of discrepancy like over report falls, reloading and unloading of coal tubs etc., and other things already pointed out this very thing to you many times and only because of such discrepancy there is a great friction amongst us and I have been put to troubles".

"Kindly look into the matter and enquire these things so that in creation of grab I shall not be harassed". The letter is manifestly vague and does not make any allegation about anything in particular against any particular individual. The Manager's endorsement in blue pencil at the bottom, asking the Welfare Officer to find from the applicant concrete cases which could be enquired into is also dated the 9th April. That would be the reaction of any head of an office. On the 15th May, Shri Ghate stated before the enquiring officer

that the letter (Ext. M9p) was ante-dated. The enquiring officer recorded the statement of Shri S. B. Singh, Clerk Grade II [Ext. M9(n)]. He stated that, on Sunday the 8th April, 1962, he took the letter [Ext. M9(p)] after signing Shri Singh's Peon Book, that he took the letter to the office on the 9th and that he put it upto the manager also on the 9th. It has been stated in the reply [Ext. M9(q)] of this letter dated the 12th April, 1962 that the letter had been received on the 9th April. It seems to me that the letter was actually received by Shri S. B. Singh on the 8th April but it was received in the Manager's office and also by the Manager on the 9th April and not earlier. I think, therefore, that the Manager has told the truth and his allegation that this letter was ante-dated is true. There could be no purpose in sending such a vague letter to the Manager except that of using it as a defence. It cannot be expected that Shri Singh would have handed over this letter to any one without taking a receipt. Shri S. B. Singh appears to have said correctly that he took the letter after signing Shri Singh's Peon Book. Had it been true that the letter was delivered on the 6th April, the concerned workman would certainly have produced the Peon Book or a receipt for the letter in any other form.

19. There was thus no reason to pass an order of transfer against Shri Singh for the purpose of victimising him. According to Shri Singh himself, he is a Mining Sirdar of long experience. A new mine had to be sunk at Aralgoria I do not see any good reason to suppose that the Manager had a *malafide* intention in selecting him for the purpose of supervising the sinking of that mine instead of a man of little experience.

20. Shri Singh received the order of transfer (Ext. M1) on the 9th April. On the 10th April, he sent a reply (Ext. M2) to the Manager. He has said in this letter that he is one of the senior workers, that sinking work is absolutely temporary, that the company has three spare mining men who are sitting idle and that they should kindly be sent for the purpose of sinking. He has further said that the place of sinking is far from his own place and there is no conveyance arrangement. He has then asked the Manager to clarify (i) why he is proposed to be transferred; (ii) what is the reason for transfer; (iii) why the spare workers have not been deputed and (iv) whether there is some arrangement for conveyance or not. This letter is important for more reasons than one. Firstly, this does not mention that the sinking of a mine at Aralgoria was to be at a lonely place or in a jungle area. Secondly, it shows that Shri Singh took it upon himself to say who would be the best man to supervise the sinking of the new mine without taking into consideration the fact that an experienced mining sirdar would be better able to do the work than a mere extra mine worker. Thirdly, the management is certainly entitled to place its workman at places where they would be most useful. It is not bound to give reasons for transfer although, in this case, it was quite obvious.

21. Shri Singh wrote another letter (Ext. M3) dated the 11th April to the Manager. In this letter, he asked why he had been stopped from working at his old place and the reason for his being transferred. Ext. M4 is a letter dated the 12th April from the Manager to Shri Singh. In this letter, the Manager has said that, as Shri Singh had been transferred to Aralgoria, his attendance was being booked at Aralgoria surface and that his attendance could not be noted at the pit top where he had been working. T. N. Banerjee, whose statement Ext. M9(f) was recorded by the enquiring officer, said that Narayan Chandra Singh appeared at the lamp cabin on 10th April, 1962 but he told him (Singh) that his attendance would be booked at Aralgoria surface whereupon Singh replied "I will not go there. There are many other junior man who can go". This cannot possibly be held to be suspension of Shri Singh because his attendance could only be taken at the place where he was transferred to and not at the place from where he had already been transferred. If he did not appear at the place where he had been transferred and get his attendance marked, he alone was to blame. Shri Bachhu Lal whose statement before the enquiring officer on the 15th May is Ext. M9(k) says that, under the Manager's order, he recorded the name of Shri Singh in the attendance register at Aralgoria but he never came there.

22. Shri Singh (WW2) has stated before me that Aralgoria is about one and half miles from Bhagaband colliery but has admitted that one of the sections of Bhagaband colliery in which he worked was 16A seam and that he used to work underground in Aralgoria, 16A seam being at a distance of about 50 ft., from the pit bottom. If he could go underground to Aralgoria and work there, I do not see how he could say that the distance between the Bhagaband and Aralgoria sections was so great that he could only go there in a conveyance. It is difficult to believe that Aralgoria is a lonely place and a jungle area for the reason which I have already given, but I may add that he was being asked to go to Aralgoria for the purpose of supervising the sinking which means supervising the work of other people in sinking the mine. He could not, therefore, be lonely while performing his duty at Aralgoria.

23. Taking all the facts and circumstances of this case into consideration. I hold that the management had the right to transfer Shri Singh and, in this case, it had full justification to do so. On the other hand, Shri Singh had no valid reason to refuse to obey the order of transfer.

Point (iv)

24. A large number of documents has been filed to show that the union made complaints against the management before various authorities. I do not think that it is necessary for me to discuss all those documents because, even supposing for the sake of argument that there was ill feeling between the management and the union, it has been clearly established in this case that the action of dismissal taken by the management against Shri Singh has been due entirely to the fact that he disobeyed the proper and justified order of transfer when he was held guilty by the enquiry officer after proper enquiry.

25. Several documents have also been filed by the management to establish that previous actions were also taken against Shri Singh on account of one misconduct or the other. I do not consider it necessary to go into those facts also because I am satisfied in the present case that the allegation against Shri Singh has been established beyond doubt. It is also clear that he has not been victimised.

Point (v)

26. In view of the findings which I have recorded above, I hold that the management was justified in dismissing Shri Singh with effect from the 7th June, 1962. The second question put in the schedule does not, therefore, arise for consideration.

27. This is my award. Let it be submitted to the Central Government under section 15 of the Industrial Disputes Act, 1947.

(Sd.) KAMLA SAHAI,

Presiding Officer.

[No. 2/59/64-LRIL.]

New Delhi, the 4th September, 1968

S.O. 3168.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal (No. 2), Dhanbad, in the industrial dispute between the employers in relation to the South Bulliaree Kenduadih Colliery of Messrs East Indian Coal Company Limited, Jealgora, Post Office Jealgora, District Dhanbad and their workmen, which was received by the Central Government on the 2nd September, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE NO. 95 OF 1967

In the matter of an industrial dispute under Section 10(1)(d) of the Industrial Disputes Act, 1947.

PARTIES :

Employers in relation to the South Bulliaree Kenduadih colliery of Messrs East Indian Coal Company Limited, Jealgora, Post Office, Jealgora, District Dhanbad.

AND

Their workmen

APPEARANCES :

For the employers : Shri S. S. Mukherjee, Advocate.

For the workmen : Shri Ram Mitra, Secretary, Bihar Koyla Mazdoor Sabha.

STATE : Bihar

INDUSTRY : Coal.

Dhanbad, 29th August, 1968.

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the South Bulliaree Kenduadih colliery of Messrs East Indian

Coal Company Limited, Jealgora, Post office Jealgora, District Dhanbad and their workmen, by its order No. 2/135/65-LRII dated 4th January, 1966 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication of the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below :

SCHEDULE

- "(1) Whether the stoppage of work of Shrimati Sugia Kamin, Sweeper (Ticket Number 70757) by the management of South Bulliaree Kenduadih colliery of Messrs East Indian Coal Company Limited, Post office, Jealgora (District Dhanbad) with effect from the 4th September, 1965 was justified?
- (2) If not, to what relief is she entitled?"

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 3 of 1966 on its file. While it was pending before the Central Government Industrial Tribunal, Dhanbad, the proceeding was transferred to this Tribunal, by the Central Government by its order No. 8/25/67-LRII dated 8th May, 1967 under Section 33 B of the Industrial Disputes Act, 1947. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 95 of 1967. Employers as well as the workmen filed their statements of demands.

3. The case of the workmen is that Smt. Sugia Kamin (hereinafter referred to as the affected workman) has been working under the employers since last 3 years without any interruption and as such, she had become permanent, that she had put in 240 days attendance in every year, that when she demanded her proper wages the employers stopped her from working with effect from 4th September, 1965 and that termination of her service without notice and without assigning any reason was unjustified. According to the statement filed by the employers the affected workman was appointed as a badli sweeper sometime in 1963 and was given employment intermittently, that the affected workman was never confirmed as a permanent workman, that it is not true that she had put in more than 240 days attendance in a year, that the affected workman was not given work after 4th September, 1965 because the management could not find any, that the affected workman being a badli sweeper was not entitled to any notice for the management's inability to provide her with work and that the action of the management was justified. By consent of parties Exts. W.1 to W.3 and M.1 were marked. Parties examined one witness each and Exts. M2 to M5 were marked. The workmen were represented by Shri Ram Mitra, Secretary, Bihar Koyla Mazdoor Sabha and the employers by Shri S. S. Mukherjee, Advocate.

4. The only point for determination is whether the affected workman was a permanent workman as pleaded by the workmen or a badli workman as contained by the employers. Exts. W.1 to W.3 are bonus cards relating to the affected workman. None of them is of any help in determining the point under consideration. The mere fact of issuing bonus cards does not give rise to the inference that the workman was a permanent one. The case of the workmen as put forth in their statement is not that the affected workman was appointed permanently or that she was confirmed as a permanent employee at any time. According to them she had completed more than 3 years service without any interruption and as such she had become permanent in her post as a sweeper. But no provision of law or the Standing Orders, Ext.M1 is cited to support the proposition. In the Standing Orders, Ext.M1, a badli worker is defined in clause 1(i) as "one who is appointed in the post of a permanent employee or probationer who is temporarily absent". Under clause 23 it is categorically stated, "no temporary employee whether monthly paid or weekly paid or piece-rated or probationer or substitute whether monthly or weekly paid shall be entitled to any notice or pay in lieu thereof if his services are terminated." Against the case set up in the statement of workmen the affected workman, WW.1 says that she was appointed as a permanent sweeper. No appointment letter is produced to support the statement of the affected workman, WW.1. She says that she had given her appointment letter into the hospital. Exts. M2 to M4 are badli chits issued to the workmen of the employers. They show that on 8th April, 1964, 8th May, 1964, 29th June, 1964, 6th July, 1964, 31st August, 1964, 7th December, 1964, 8th March, 1965, 8th April, 1965, 8th July, 1965 and 9th August, 1965 the affected workman was employed to work as a badli workman. Ext.M5 is a statement of attendances in respect of the affected workman. It says that the affected workman was provided work intermittently. Ext.M5 also says that the affected workman had put in 220 7/8 attendances only and not 240 as pleaded by the workmen. MW.1 was the Labour Officer of the colliery from 1956 to 1964 and thereafter is working at the Central office of the employers. It is in his evidence that the badli slips contained in the books Exts.M2 to M4 were issued by him or by Shri S. K. Banerjee, the other Welfare Officer, that Ext.M5 statement was prepared from pay sheets for the weeks

1 to 44 and 46 to 52 and that the statement was compiled and prepared under his supervision correctly. He is emphatic in his evidence that the affected workman was never a permanent sweeper under the employers. On this evidence I have no hesitation to hold that the affected workman was a badli workman and as such the employers were not unjustified in stopping her from work with effect from 4th September, 1965 without any notice, and as such she is not entitled to any relief. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,
Presiding Officer,
Central Govt. Industrial Tribunal
(No. 2) at Dhanbad.
[No. 2/135/65-LRU.]

S.O. 3169.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal (No. 2), Dhanbad, in the industrial dispute between the employers in relation to the Khas Kusunda Colliery, of Messrs Khas Kusunda Coal Company (Private) Limited, Post Office Kusunda, District Dhanbad and their workmen, which was received by the Central Government on the 2nd September, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2)
AT DHANBAD

PRESENT:

Shri Nandagiri Venkata Rao—*Presiding Officer.*

REFERENCE NO. 94 OF 1967

In the matter of an industrial dispute under Sec. 10(1)(d) of the Industrial Disputes Act, 1947.

PARTIES:

Employers in relation to the Khas Kusunda Colliery of Messrs Khas Kusunda Coal Company (Private) Limited, Post Office Kusunda, District Dhanbad.

AND

Their workmen.

APPEARANCES:

For the employers.—Shri S. S. Mukherjee, One of the Directors.

For the workmen.—Shri Prasanta Burman, Vice President, Mine Mazdoor Union.

STATE: Bihar

INDUSTRY: Coal.

Dhanbad, 30th August, 1968

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Khas Kusunda Colliery of Messrs Khas Kusunda Coal Company (Private) Limited, Post Office Kusunda, District Dhanbad and their workmen, by its order No. 2/134/65-LRU dated 31st December, 1965 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10 (1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

“(1) Whether the dismissal of Sarvashri K. B. Singh and Sundar Shyam, Ex-Overman of Khas Kusunda Colliery, Post Office Kusunda (District Dhanbad) with effect from 12th September, 1965 and 23rd August, 1965 respectively by the management of Khas Kusunda Coal Company (Private) Limited, Khas Kusunda Colliery, Post Office Kusunda (District Dhanbad) was an act of victimisation for trade union activities?

(2) If so, to what relief are the workmen entitled?”

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as Reference No. 1 of 1966 on its file. Employers as well as the workmen filed their statement of demands. While it was pending before the Central Government Industrial Tri-

bunal, Dhanbad, the proceeding was transferred to this Tribunal, by the Central Government by its order No. 8/25/67-LRII dated 8th May, 1967 under Section 33 B of the Industrial Disputes Act, 1947. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 94 of 1967.

3. The dispute of Sarvashri K. B. Singh and Sundar Shyam, Ex-Overmen of the employers colliery (hereinafter referred to as the affected workmen) was sponsored by the General Secretary, Mine Mazdoor Union (hereinafter referred to as the union). The union filed the statement of demands in respect of both the affected workmen. Subsequently, Shri Prasanta Burman, Vice President of the union appeared and on 10th July, 1968 he filed a memo stating that he did not wish to represent the case of the affected workman, Shri Sundar Shyam. The employers were represented by Shri S. S. Mukherjee, one of the Directors. It is not in dispute and this Tribunal is not competent to go beyond the fact that the affected workman, Shri K. B. Singh was dismissed with effect from 12th September, 1965 and Shri Sundar Shyam with effect from 23rd August, 1965. The only point for determination is whether the dismissal of the two affected workmen by the employers was an act of victimisation for trade union activities. The case of the union is that both the affected workmen were active members of the union with the knowledge of the employers, that they had very often taken up the dispute of the workers of the colliery to the management on behalf of the union, that on the failure of the affected workmen to get relief the General Secretary or the Vice President of the union had to take up the matter with the management and that the affected workmen were dismissed for playing active part in the union. They further pleaded that the domestic enquiries conducted against the two affected workmen were improper. The employers filed their statement of demands stating that they were not aware if the two affected workmen were members of the union or of any union at all on or before 12th September, 1965 or that the two affected workmen had any trade union. They further pleaded that the domestic enquiries conducted against the two affected workmen were victimised for any trade union activity. According to the employers the affected workman, Shri K. B. Singh came on duty on 29th June, 1965 in the 2nd shift, recorded his attendance, but did not go underground and perform his duties, that in spite of it he submitted the statutory daily report of the underground falsely and that he remained absent without permission or authorised leave since 29th June, 1965. Regarding the other affected workman, Shri Sundar Shyam the employers stated that he was in the 3rd shift on 3rd July, 1965, that he left his place of work at about 5 A.M. without informing or giving charge of the section to any other competent person, that both the affected workmen were issued charge-sheets for misconduct, that they submitted their explanations to the charge-sheets but did not participate in the enquiries and that as a result of the domestic enquiries the two affected workmen were found guilty of the charges and dismissed from service. By consent of parties Exts. W1 to W5 and Exts. M1 to M9 were marked. On behalf of the union a witness was examined and Ext. W6 was marked. The employers examined two witnesses and marked Exts. M10 to M18.

4. In terms of the reference the onus was lying on the union to prove that the dismissal of the two affected workmen was an act of victimisation for their trade union activities. In their statement of demands the union had put forth the case that the two affected workmen were active members of the union, that very often they took up the dispute of the workers of the colliery to the management and on their failure the General Secretary or the Vice President had to take up the matter and that by inference the union pleaded that owing to the above activities of the two affected workmen and its General Secretary or the Vice President the employers chose to dismiss the two affected workmen. The General Secretary or the Vice President of the union is not examined. Out of the two affected workmen, only Shri K. B. Singh is examined as WW.1. His evidence is that he was a member of the branch union at the colliery since 1963, that he was the Secretary of the branch union from the very beginning, that as the Secretary of the branch union he used to represent to the management complaints of the workmen and that as the Secretary of the branch union his relations with the management were not good. It is to be remembered that the witness was dismissed from service with effect from 12th September, 1965, although he says that he was a member and the Secretary of the branch union at the colliery from 1963, making representations to the management in respect of the complaints of the workmen. He has assigned no reason why the management waited for about two years to victimise him. He has not deposed to any particular fact that gave rise to the action taken by the management. The employers have denied the membership of the witness of the union or his being the Secretary of the branch union at the colliery. The witness says that he was elected as the Secretary of the branch union in 1963 and is being elected each year as such subsequently. According to him the proceedings of the meetings electing him as the Secretary were recorded in the minutes book. But the minutes book is not brought on record. He concedes that no written notice of the meetings or elections was given to the management and that he has no office copy of the representations made by him to the management on behalf of the worker members. Admittedly, he did not submit any representation to the Regional Labour Commissioner, Assistant Labour Commissioner or Labour Inspector. He says that he used to sign and pass receipts while collecting

subscriptions and maintain counterfoils which were also used to be signed by him. If the receipts or counter-foils were brought on record and shows that they were in fact signed by the witness, that could be a piece of evidence that the witness acted as the branch Secretary. But no such receipts or counter-foils have come forth. Ext. W.6 is an extract from the membership register showing that the two affected workmen were members of the union. But that does not take us further to see what the trade union activities of the witness were. The other exhibits filed on behalf of the union have no bearing on the point under consideration. Shri K. P. Majumder, MW.1 was the Manager of the colliery from March, 1965. He deposed that at no time he was informed that the affected workman, Shri K. B. Singh, was elected Secretary of the branch union. He also denied that the affected workman, Shri K. B. Singh had made any representation of any grievance of any workman to him. It is an admitted fact that both the affected workmen received charge-sheets and submitted their explanations. The charge-sheets issued to the affected workman, Shri K. B. Singh is Ext. M1 and his explanation to it is Ext. M2. The charge-sheet issued to the affected workman, Shri Sundar Shyam is Ext. M5 and his explanation to it is Ext. M6. If the issue of charge-sheets to the two affected workmen was actuated by the motive of victimisation for their trade union activities it is but natural that the two affected workmen should plead the same in their explanation. But there is not even a word either in Ext. M2 or in Ext. M6 about their being victimised, much less for their trade union activities. This only supports the contention of the employers that the case of victimisation is set up by the union as an after thought. On this material I have no hesitation to hold that the union has miserably failed to establish that the dismissal of the two affected workmen was an act of victimisation for their trade union activities.

5. The union tried to assail the domestic enquiries held by the employers against the two affected workmen. As I have stated above, the two affected workmen had received their charge-sheets and submitted their explanations. The affected workman, Shri K. B. Singh, WW.1 has conceded that he has received notices of enquiry for 4 hearings and in spite of it he did not participate in it. The question whether he had sufficient reason not to attend the enquiry and whether he was guilty of the charge were matters within the purview of the Enquiring Officer. No allegation is made that the enquiry was perverse or vitiated by any legal flaw. The Enquiring Officer is examined as MW2. Nothing is elicited from him which could support the contention of the union. There is absolutely no evidence on behalf of the affected workman Shri Sundar Shyam and Shri Prasanta Burman, Vice President of the union has given up his case.

6. I, therefore, hold that the dismissal of the affected workmen, Sarvashri K. B. Singh and Sundar Shyam, Ex-Overmen of Khas Kusunda Colliery, Post Office Kusunda (District Dhanbad) with effect from 12th September, 1965 and 23rd August, 1965 respectively by the management of Khas Kusunda Coal Company (Private) Limited, Khas Kusunda Colliery, Post Office Kusunda (District Dhanbad) was not an act of victimisation for trade union activities and that as such, the affected workmen are not entitled to any relief. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,
Presiding Officer.

[No. 2/134/65-LRII.]

New Delhi, the 5th September 1968

S.O. 3176.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, No. 2, Dhanbad, in the industrial dispute between the employers in relation to the Bararee and Jealgora Collieries of Messrs East Indian Coal Company Limited, Post Office Jealgora, District Dhanbad and their workman, which was received by the Central Government on the 27th August, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE NO. 89 OF 1967

In the matter of an industrial dispute under Section 10(d) of the Industrial Disputes Act, 1947.

PARTIES:

Employers in relation to the Bararee and Jealgora collieries of Messrs East Indian Coal Company Limited, Post Office Jealgora, District Dhanbad.

AND

Their workmen.

APPEARANCES:

For the employers.—Shri D. Narsingh, and Shri Bala Bhadra Prasad Singh, Advocates.

For the workmen.—Shri B. Lall, Advocate.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, 23rd August, 1968

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Bararee and Jealgora collieries of Messrs East Indian Coal Company Limited, Post Office Jealgora, District Dhanbad and their workmen, by its order No. 2/123/65-LRIL, dated 25th November, 1965 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

"(1) Whether the action of the management of Bararee and Jealgora Collieries of Messrs East Indian Coal Company Limited, Post Office Jealgora, District Dhanbad in refusing to provide employment to the workmen, whose names are given in Annexure 'A', with effect from the 17th May, 1965 was justified?

(2) If not, to what relief are the workmen entitled?"

ANNEXURE A

Sl. No.	Name of the workman	Designation	E.B. No.
1.	Bikaram	M.C. Loader	12202
2.	Raghuraj	"	12404
3.	Ramlakhan	"	12170
4.	Sumeshwar	"	41942
5.	Lahari	"	10541
6.	Reman	"	12008
7.	Bhadai	"	42099
8.	Purustama	"	15169
9.	Siri	"	40323
10.	Mahatam	"	15149
11.	Jagpat	"	12379
12.	Laku	Pick Miner	10817
13.	Ramdhari	M.C. Loader	12414
14.	Barhu	"	15227
15.	Antu	"	15212
16.	Jailal	"	42451
17.	Sama	"	15145
18.	Sco Prasad	"	42438
19.	Hussani	"	12372
20.	Majnu	"	10739
21.	Amarnath	"	15184
22.	Budhram	"	10742
23.	Nageswar	"	15229
24.	Munshi	"	12394
25.	Darsia	"	15214
26.	Banbari	"	12433
27.	Jibal	"	12275
28.	Dukhan	"	15189
29.	Nakaru	"	15191
30.	Bajjnath	"	15180
31.	Sumer	"	12305
32.	Sohan Lal	"	42212
33.	Tejai	"	12392
34.	Sukan	"	15175
35.	Bisnath	"	12389

Sl. No.	Name of the workman	Designation	E.B. No.
36.	Gopi	M.C. Loader	12356
37.	Sukru	"	12261
38.	Ramchandra	"	10707
39.	Makhla	"	1077
40.	Raghunandan	"	12240
41.	Durga	"	42588
42.	Dudhnath	"	12131
43.	Sumer	"	12305
44.	Dipan	"	15242
45.	Ramchandra	"	20130
46.	Khedu	"	15146
47.	Indradeo	"	15219
48.	Bikram	"	15161, 15241
49.	Bhnai	"	15213
50.	Muneswar	"	16194
51.	Sikhu	"	15199
52.	Bigan	"	15173
53.	Mahesh Saw	"	12403
54.	Moti	"	15226
55.	Muner	"	12364
56.	Aserfi Lal	"	15198
57.	Birja	Pick Miner	10767
58.	Ramlal	"	10877
59.	Purusotam	"	10720
60.	Jokhan	"	10768
61.	Ramautar	"	40409
62.	Upasi	"	10031
63.	Tekan	"	10603
64.	Mangaloo	"	10059
65.	Patal	"	10538
66.	Budhu	"	10600
67.	Biswanath	"	10656
68.	Somaru	"	41908
69.	Seo Narain	"	10767
70.	Jailal	"	10758
71.	Kalidia	"	10529
72.	Rameswar	"	10769
73.	Ramlal	"	10691
74.	Raghunath	"	10800
75.	Janki	"	10889
76.	Parsuram	"	10861
77.	Sikendar	"	10855
78.	Ram Narain	"	40853
79.	Bahadur	"	40150
80.	Gunai	"	10775
81.	Mathur	"	10791
82.	Pirithi	"	10883
83.	Sarjoo	"	42056
84.	Bhokhara	"	40165
85.	Purnamasi	"	40413
86.	Ragarnath	"	10891
87.	Prasad	"	41164
88.	Tilleshwar	"	10888
89.	Seodhari	"	41494
90.	Chhotoo	"	10669
91.	Gurudayal	"	10834
92.	Rachhya	"	10874
93.	Rameshwari	"	10847
94.	Iswar	"	40037
95.	Durja	"	10106
96.	Ram Prasad	"	10733
97.	Sukhlal	"	10561
98.	Ramdas	"	10927
99.	Gangadhar	"	10832
100.	Dwarka	"	7723
101.	Nathu	"	10862
102.	Ramsumer	"	8494

Sl. No.	Name of the workman	Designation	E.B. No.
103	Sukhu	Pick Miner	10595
104	Surju	"	10933
105	Bhola	"	10855
106	Lagan	"	10887
107	Bagina	"	40261
108	Indlal	Loader	41826
109	Ramdeo	Pick Miner	61538
110	Ashu Modi	"	41421
111	Bhagelu	"	41702
112	Lalmohan	Loader	9999
113	Fugoo	"	12446
114	Parmeswar	"	12450
115	Ramcharitra	Pick Miner	40101
116	Kujan	M. C. Loader	10957
117	Sahdin	"	41730
118	Bhdhan	"	12464
119	Ram Bali	"	42796
120	Banshi	"	41773
121	Ram Bachhan	Pick Miner	40171
122	Ganesh	M.C. Loader	41462
123	Ram Sevak	"	4074
124	Ram Naresh	"	40743
125	Bhurawa	"	41826
126	Prabhu	"	12466
127	Chhatu	"	4997
128	Ram Sunder	"	41849
129	Babban	"	43004
130	Jagannath	Pick Miner	40112
131	Lorha	"	40379
132	Ram Ratan	"	40109
133	Smrabjit	M.C. Loader	40508
134	Panchami	"	41168
135	Ali Hussien	"	42817
136	Feku	P. Miner	41192
137	Shyamlala	M.C. Loader	40521
138	Balihar	"	9825
139	Jagdeo	"	1078
140	Rewati	P. Miner	40191
141	Priyug	Loader	40522
142	Jegan	P. Miner	41423
143	Chowkat	"	41196
144	Paresb	"	41457
145	Budhram	"	9949
146	Ram Gulam	M.C. Loader	42795
147	Deoraj	"	12465
148	Deonath	"	40962
149	Budhu	P. Miner	10945
150	Brikdhun	M.C. Loader	42923
151	Seodhar	"	41780
152	Devi Ratan	P. Miner	10946
153	Sitaram	"	10953
154	Sambhu Pashi	M.C. Loader	42832
155	Mankhu	"	12501
156	Sukhdeo	"	40746
157	Moti Lal	"	41449
158	Dhiroo	Pick Miner	10881
159	Lalan	"	40059
160	Arjun	"	40052
161	Krishan Pashi	"	10761
162	Bindeswari Saw	"	10885
163	Lachhu	"	10778
164	Lagan	"	10887
165	Juganu	"	10615
166	Jagdeo	"	10700
167	Chandrika	"	41226
168	Ram Dularey	"	41842

Sl. No.	Name of the workman	Designation	E.B. No.
169	Ramsukh	M.C. Loader	42778
170	Sukali	"	9923
171	Ram Sujiwan	Pick " Miner	40180
172	Musuriadih.	M.C. Loader	12324
173	Bisram	"	10776
174	Ram Nihera	"	42489
175	Behari	"	12333
176	Mahangoo	"	12030
177	Hiral	"	12031
178	Ramkhelawan	"	12245
179	Punowa	"	15119
180	Hari Charan	"	12365
181	Bedeshi	"	12882
182	Ram Das	"	15076
183	Sudan	"	12367
184	Prahalad	"	42501
185	Bindadin	"	15067
186	Sukar.	"	12212
187	Mahangoe	"	15077
188	Kardhani	"	15086
189	Ramdeo	"	10726
190	Bhulow	"	15033
191	M nker	"	41864
192	Tribhuwan	"	10848
193	Blageloo	"	15246
194	Seolal	"	12342
195	Girdhari	"	12042
196	Bhyaram	"	12121
197	Sarup	"	41765
198	Kachi	"	15202
199	Nahangi	"	10939
200	Kharpat	"	10940
201	Mahabir	"	12039
202	Shiblal	"	10831
203	Nabi	"	12048
204	Ramehwar	"	10935
205	Sukha	"	12173
206	Bhulan	"	10837
207	Chinta	"	12036
208	Dudhnath	"	12242
209	Sadasukh	"	12354
210	Seelakhan	"	10879
211	Chaitram	"	12304
212	Mohan	"	10879
213	Bhagirath	"	42392
214	Rambilas	"	42077
215	Bikram	"	40015
216	Seojore	"	40225
217	Panchanan	"	41283
218	Satnarayan	"	42364
219	Bhayaram	"	41720
220	Guha	"	14801
221	Sukhdeo	"	41788
222	Sunder	"	41543
223	Babulal	"	41540
224	Kumar	"	40414
225	Sechan	"	40842
226	Bohar	"	40844
227	Ram Prasad	"	40815
228	Dukelu	"	42149
229	Mangalwa	"	42146
230	Fudaru	"	42151
231	Sarju	"	42177
232	Sarju	"	12031
233	Kallu	"	40063
234	Jitu	"	42558

Sl. No.	Name of the workman	Designation	E.B. No.
235	Seobadan	M.C. Loader	10773
236	Mahatar Das	"	41259
237	Prasadi	"	42238
238	Mukhram	"	40843
239	Punit	"	42470
240	Dharamdin	"	41296
241	Gannue	"	12340
242	Chbedi Bhuia	"	15107
243	Kuira.	"	12156
244	Hira Lal	"	42368
245	Murahu	"	12325
246	Subedar	"	12514
247	Harihar Nath	"	12516
248	Gour	"	12134
249	Pigan	"	12409
250	Bindadin	"	40548
251	Deyaram	"	12508
252	Sekhu	"	40813
253	Chaitram	"	12062
254	Sarju	"	12185
255	Pardeshi	"	12127
256	Budhu	"	12327
257	Baijnath	"	12329
258	Nankoo	"	12069
259	Budhai	"	12119
260	Lerga.	"	12108
261	Mohan	Pick Miner	10905
262	Moni	"	10961
263	Rampati	"	10174
264	Rama	"	40429
265	Meghu	"	41221
266	Baben Khan	"	15144
267	Babu Khan	"	15143
268	Ramnath	"	10174
269	Razak	"	41579
270	Pushun	"	10535
271	Waluit Mia	Loader	1049
272	Ishlam	"	12363
273	Balkishore	"	12294
274	Sadhuji	"	12007
275	Bhairoo	M. G. Loader	42945
276	Paran	"	10950
277	Parbhunath.	"	42825
278	Ghasiloo	"	42897
279	Budhu	"	42889
280	Rambrichh	"	42011
281	Ganga	"	42009
282	Rampati	"	41985
283	Sambhu	"	41163
284	Habu	Pick Miner	15141
285	Madho	M. G. Loader	12504
286	Bandhan	"	41634
287	Kishan	"	42831
288	Rama	"	15139
289	Jhulan	"	41611
290	Chandan Lal	"	41420
291	Bachhu Mian	"	42498
292	Chandrika	"	42926
293	Babulal	"	42927
294	Badri	Pick Miner	1043
295	Benis	"	10914
296	Rama Nath	"	10807
297	Praveo Dayal	"	10826
298	Pardeshi	"	10900
299	Bhawanidih	"	4850
300	Panchu	"	10786
1	Bishun	"	40469

Sl. No.	Name of the workman	Designation	E.B. No.
302	Dukhram	Pick Miner	10788
303	Asharam	"	10911
304	Ausan	"	10806
305	Seobodhan	"	40801
306	Kalidin	"	40069
307	Putan	"	10792
308	Kharbahar	"	10910
309	Rasik	"	10779
310	Rajoo	"	10790
311	Sricharan	"	41355
312	Kaloo	"	41667
313	Sahdeo	"	10783
314	Kinoo	"	10902
315	Ramlal	"	8426
316	Fagoo	"	10816
317	Rambilash Pashi	"	40519
318	Puni Pashi	"	41978
319	Jodhai Jaiswara	"	..
320	Shobnath Beldar	"	..
321	Ramdeo Jaiswara	"	..
322	Prahaladi	M. C. Loader	..
323	Rajaram	"	12464
324	Indradeo	"	12465
325	Jagardeo	"	10942
326	Musufir	Loader	41289
327	Mushan	Pick Miner	12268
328	Asharam Saw	"	..
329	Ramratan	"	..
330	Bhagwandin	"	4872

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 196 of 1965 on its file. Employers as well as the workmen filed their statements of demands. While it was pending before the Central Government Industrial Tribunal, Dhanbad, the proceeding was transferred to this Tribunal, by the Central Government by its order No. 8/25/67-LRII dated 8th May, 1967. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 89 of 1967.

3. Khan Mazdoor Congress (hereinafter referred as the union) served a strike notice on 25th January, 1965 on the management of the two collieries (hereinafter referred to as the management) in respect of certain demands, including the reinstatement of some dismissed workmen. The matter was taken up in conciliation by the Assistant Labour Commissioner, Dhanbad, but nothing came out of it to satisfy the union. Ultimately the workmen of the two collieries struck work from 1st April, 1965. A series of notices were put up by the management asking the workmen to report back to duty. By the last of such notice, the management declared that all such workmen who did not report to duty by the 2nd shift of 27th April, 1965 have lost their lien on their appointment and their places would be filled up by fresh recruits. Even then the strike continued and it was finally called off on 17th May, 1965. These facts are not in dispute.

4. The workmen filed their statement of demands on 6th January, 1966 and rejoinders on 31st March, 1966 and 21st February, 1968. Their case in brief is that it was the management that drove the workmen to the extreme step of strike from 1st April, 1965, that the strike was quite valid and legal, that it was called off with effect from 17th May, 1965 with ferment sense of patriotism and at the intervention of the Hon'ble Labour Minister and that the action of the management in refusing employment to the workmen with effect from 17th May, 1965 when the strike was called off was most unfair, illegal, unjustified and actuated by the motive of victimisation and disrupting the rank and file of the union. The employers filed their rejoinder on 17th February, 1966, applications on 4th April, 1966, 12th April, 1966, 19th April, 1966, 24th June, 1968, 6th February, 1968 and 4th May, 1968 and supplementary statement on 13th February, 1968, raising several

objections to the sustainability of the reference and refuting the case of the union. The objections raised through the above were as under :—

I. Out of the 330 workmen mentioned in the annexure to the schedule of the reference—

- (a) 110 did not report to duty after the strike was called off on 17th May, 1965 (List No. I annexed to the application of the management filed on 4th April, 1966).
- (b) 146 were refused employment by the management as they were under suspension pending enquiries or were dismissed as a result of enquiries (List No. II annexed to the application of the management filed on 4th April, 1966).
- (c) 5 were provided with employment by the management when they turned up after the strike was called off (List No. III annexed to the application of the management filed on 4th April, 1966).
- (d) One more name supplemented to 67 mentioned in the rejoinder of the management filed on 17th February, 1966 making the total of 68 who were not employees of the management (List No. IV annexed to the application filed on 4th April, 1966).
- (e) Sl. Nos. 31 and 43 in the annexure to the schedule of reference relate to none and the same person.

II. Preliminary questions required by the management to be disposed of before entering on merits of the reference—

- (a) Whether the fact of workmen remaining idle from 1st April, 1965 to 17th May, 1965 was a lockout or strike?
- (b) Whether all the 330 workmen mentioned in the annexure to the schedule of the reference were members of the union before 17th May, 1965 to entitle the union to raise the dispute on their behalf?
- (c) Whether the Tribunal can correct numbers of the 68 workmen? (mentioned in the rejoinder of the management filed on 17th February, 1966 and list IV annexed to the application of the management filed on 4th April, 1966).
- (d) Whether the Tribunal has jurisdiction to go into the questions of dismissal or suspension by the management of the 146 workmen? (mentioned in list No. II annexed to the application of the management filed on 4th April, 1966).

III. (a) The strike from 1st April, 1965 to 17th May, 1965 was illegal.

- (b) The management, as employers was justified in terminating the services of their employees when they went on illegal strike.
- (c) Because the workmen did not turn up to duty in spite of notices and the last notice dated 27th April, 1965 in particular, the management was justified in terminating their services and refusing them employment from 17th May, 1965.
- (d) There was no vindictiveness on the part of the management in refusing employment to the workmen from 17th May, 1965.
- (e) Sl. No. 269 was not a member of the union and, as such his dispute is not an industrial dispute.
- (f) None of the workmen mentioned in Annexure 'A' to the schedule of the reference had raised any dispute with the management, and, as such the reference by the Government was not correct.

5. The workmen, through the union were represented by Shri B. Lall, Advocate and the management by S/Shri D. Narsingh and Bala Bhadra Prasad Singh, Advocates. By consent of the management Exts. W to W17 and by consent of the union Exts. M. to M8 were marked. On behalf of the union 4 witnesses were examined and Ext. W.18 was marked. The management examined 2 witnesses and marked Exts. M9 to M859.

6. At the insistence of the management through several applications my learned predecessor heard arguments of parties and deposed of as preliminary objections the questions mentioned in II(a) to (d) by his order dated 23rd April, 1966 holding—

- (a) that the question whether the fact of workmen remaining idle from 1st April, 1965 to 17th May, 1965 was a lock out or strike, was not a preliminary question and as such was not necessary to be decided at that stage.

- (b) that the 330 workmen mentioned in the annexure to the schedule of reference were members of the union from before the present dispute arose, i.e. from before 17th May, 1965 or 19th July, 1965 and that the union had jurisdiction to sponsor the dispute of these workmen and that by the union sponsoring it, the individual dispute was clothed with the characteristic of an industrial dispute.
- (c) that the mistakes pointed out in list No. IV in the management's petition filed on 4th April, 1966 were cases of misdescription and not non-description and as such the Tribunal has jurisdiction to correct such misdescription which do not affect the identity of the workmen at all.
- (d) that the scope of the reference is quite wide and comprehensive and that by deciding the issue in question the entire issue would be decided and necessary relief can be given if the decision goes in favour of the workmen.

Against the above order of my learned predecessor the management went in a writ petition under Article 226 and 227 of the Constitution of India to the High Court of Judicature at Patna and the High Court dismissed the writ petition by its order dated 4th July, 1966. The order of the High Court is again sought to be agitated by the management in the Supreme Court by submitting a petition for special leave to appeal. But the management appears to have withdrawn their petition. Consequently, the findings given by my learned predecessor through his order dated 23rd April, 1966 have become final.

7 I(a) In terms of the reference it could not be disputed that the 330 workmen of Baranee and Jealgora collieries mentioned in the annexure to the schedule of the reference were refused work with effect from 17th May, 1965 and the management had to justify in doing so. Along with the application dated 4th April, 1966 the management filed list No. 1 containing names of 110 workmen stating that they were refused work with effect from 17th May, 1965 because they had not reported for work on that date after the strike was called off. The union denied the allegation in para 16 of the rejoinder filed on 31st March, 1966. In para 7 of the rejoinder filed on 27th February, 1968 the union specifically pleaded that all workmen had reported for their duties. Thus, the onus was lying on the management to prove that the 110 workmen mentioned in list 1 filed along with their application dated 4th April, 1966 did not report to work on 17th May, 1965. As pointed out by MW2, the workmen of the two collieries who were on strike till 16th May, 1965 were 1100, 700 at Jealgora and 400 at Baranee and after the strike was called off some out of the 1100 workmen resumed work. MW.1 also states that during the period of strike and before the strike was called off in response to the notices issued by the management some of the workmen went on joining duty from time to time. The notice, Ext. W.6 also confirm the position. Obviously, list No. 1 must have been prepared by someone and it must have been based upon some material. MW.2 states that the application filed on 4th April, 1966 was also prepared under his instructions and that his statement that on 17th May, 1965 many of the workmen did not report to duty, was based on record. If it is so, what was the record and why was it not produced before the Tribunal. The witness and MW.1 further state that attendance registers are maintained for workmen and if a workman does not report to duty he is marked absent in the register. That must be so, because to maintain such an attendance register is a statutory obligation laid down under Rule 78 of the Indian Mines Rules, 1955. But the management did not choose to produce the attendance register to support the oral testimony of the witness. MW.2. There is absolutely no material to support the bold statement of the witness. Even this statement of the witness does not explain how out of 1100 workmen, list 1 of 110 workmen was prepared stating that they had not reported for duty on 17th May, 1965. The union, neither in any of its statements, rejoinders or applications nor through any of its witnesses has categorically conceded that the 110 workmen mentioned in list No. 1 filed by the management along with the application on 4th April, 1966 did not report for duty on 17th May, 1965. Relying upon the letter of the union, Ext. W.3 it is contended on behalf of the management that the union has conceded that on 17th May, 1965 some of the workmen did not report for duty. Stating that some workmen out of 1100 did not report for duty is different from conceding the allegation specifically that the 110 workmen mentioned in list 1 annexed to the application filed on 4th April, 1966 did not report for duty on 17th May, 1965. Hence, the allegation is held as not proved.

8 I(b) Along with the application on 4th April, 1966 the management filed list No. 2, stating that 146 workmen out of 330 mentioned in the annexure to the schedule of the reference were refused employment on 17th May, 1965 because they were under suspension pending enquiry into the charge-sheets. This contention is denied by the union and as such the burden was lying on the management to prove it. On behalf of the management copies

of charge-sheets relating to 144 workmen are filed, stating that the 144 workmen were put under suspension from the dates mentioned in the respective charge-sheets.

9. As per clause 28 of the Standing Orders, Ext. M298, the management was competent to cause enquiry against any workman before punishing him by way of suspension, dismissal or fine and to suspend a workman during the period of the enquiry. But the management should actually suspend the workman and, I consider that the suspension comes into effect when the suspension order is communicated to the concerned workman. The management by merely passing the suspension order on record cannot contend that it had come into effect. The union has denied service of charge-sheets on the workmen to whom they were said to have been issued. MW1 has deposed that he had received Ext. M854, explanation on behalf of 5 workmen and Ext. M855 on behalf of one workman to whom charge-sheets were issued. But Exts. M854 and M855 clearly show that they were in relation to the charge-sheet which were dated 18th May, 1965 and therefore are of no avail to the management in justifying their refusal of employment to these 6 workmen on 17th May, 1965. It is true that the union in its statements has quoted a charge-sheet and pleaded that issuing of charge-sheet and subsequent action of dismissal against Sarvashree Sobhnath Beidar, Ram Deb and Jodhai were illegal. By reading the entire statement it is manifest that the union has stated so by way of illustration and as an alternative plea but neither specifically nor by implications conceded that the charge-sheets issued by the management prior to 17th May, 1965 were served on any of the concerned workman. None of the witnesses examined by the union conceded receipt of such charge-sheet by any of the workman involved in the reference. Merely because the union has stated in their statement that charge-sheets issued to some of the workmen were baseless and illegal it cannot be interpreted as admission on the part of the union that all the workmen to whom charge-sheets were issued had received them individually. Out of the 2 witnesses examined for the management, MW1, alone had conducted some enquiries. Having stated repeatedly that before commencing enquiries into the charge-sheets he had satisfied himself that the charge-sheets were served on the workmen concerned, the witness came forth with the categorical statement that out of 31 enquiries conducted by him charge-sheets sent to the workmen were not returned nor were their acknowledgements received in 29 cases. It means that in the 29 cases enquired by the witness there was no information whether the charge-sheets along with the suspension order were served or not. Along with the charge-sheets the management has produced postal receipts to show that the charge-sheets were issued to each of the workmen concerned. But MW1 has admitted that in respect of the following charge-sheets postal receipts are not filed before the Tribunal. Exts. M55, M59, M60, M61, M65, M67, M68, M71, M75, M80, M84, M86, M87, M88, M89, M91, M95, M96, M97, M99, M100, M101, M105, M13, M20, M29, M110, M111, M112, M113, M117, M118, M119, M122, M123, M125, M126, M127, M128, M129, M131, M132, M133, M136, M139, M143, M144, M149, M138, M139, M140, M148, M153, M154, M152. But on a close scrutiny of the Exts. I find that in respect of the following 93 charge-sheets postal receipts are not filed. Exts. M13, M20, M29, M36, M39, M43, M44, M49, M52, M55, M57, M59, M60, M61, M65, M66, M67, M68, M71, M75, M80, M84, M86, M87, M88, M89, M91, M95, M96, M97, M99, M100, M101, M105, M110, M111, M112, M113, M117, M118, M119, M120, M122, M123, M124, M125, M126, M127, M128, M129, M130, M131, M132, M133, M138, M139, M140, M147, M148, M152, M153, M154, M159, M160, M161, M163, M165, M169, M174, M176, M182, M183, M189, M195, M199, M204, M223, M224, M232, M236, B237, M241, M242, M244, M248, M249, M254, M271, M277, M278, M288, M295 and 297.

Of course, all the charge-sheets referred to by MW1 and mentioned above are included in these 93 charge-sheets. I agree with the proposition of law that if the issue of charge-sheets by registered post is proved satisfactorily, their services on the concerned workmen can be presumed unless contrary is proved. To prove issue of the 144 charge-sheets the management has brought on record no material other than postal receipts. Even the person who actually had taken the letters containing the charge-sheets to the post office, registered them and obtained receipts is not examined. When the union has denied service of charge-sheets on any of the workmen there is no material on the basis of which service of these 93 charge-sheets can be accepted, because in respect of these 93 charge-sheets even postal receipts are not produced. Further, out of the above charge-sheets Exts. M109, M111 to M133, M153 and M154 relate to 26 workmen and they are dated 18th May, 1965. It emerges that the 26 workmen to whom charge-sheets were issued on 18th May, 1965 were not under suspension on 17th May, 1965, when the management refused them employment. There is no explanation forthcoming from the management why these 26 workmen were refused employment on 17th May, 1965. There is no room to contend that they were refused employment in anticipation of issuing charge-sheets to them along with suspension order to be issued on 18th May, 1965. Hence, I find that service of the above referred to 93 charge-sheets is not proved and, consequently, there is no

proof that the 93 workmen concerned with the 93 charge-sheets were under suspension or on that ground the management was justified in refusing employment to them on 17th May, 1965.

9. The postal acknowledgements or returned letters are not produced to enable me to see to what addresses the letters were sent. In the charge-sheets only Pit No., name of workman, his EB number and occupation are mentioned. From the postal receipts available it appears that only Pit No. of the concerned workman and the name of the colliery were given. It's an admitted case that from 1st April, 1965 till 17th May, 1965 there was complete strike in both the collieries. In other words no workman was working in any of the pits of the two collieries. This fact was well-known to the management and in spite of it they chose to send the charge-sheets to the workmen mentioning only their pit numbers. The inference is irresistible that they sent the charge-sheets knowing fully well that they would not be served on the workmen concerned. Out of 1100 workmen who were on strike charge-sheets were issued only to 144 and as such there was no reason for the 144 workmen even to suspect that the charge-sheets were issued to them. For these reasons I find that issue of charge-sheets, even in cases where postal receipts are filed was not to the addresses where they could be served on the concerned workmen and as such issue of the charge-sheets was as good as their non-issue. When the charge-sheets were not issued at all, there was no suspension order against the workmen to whom the charge-sheets are said to have been issued. Consequently, I hold that none of the 144 workmen was under suspension on 17th May 1955 justifying on the part of the management refusal of employment to them.

10. 1 (c) In para III (c) of the application filed on 4th April 1966 the management has pleaded that 5 workmen were provided with employment sometime subsequent to 17th May 1965 and the management filed list No. 3 along with the application showing the names of the 5 workmen. But the management had to provide work to the 5 workmen from 17th May of 1965 and, as such, the burden was lying on the management to prove that the 5 workmen did not present themselves for work on 17th May, 1965 but did so later. For this they could file the attendance registers showing that the 5 workmen were absent on 17th May 1965. The management has not even mentioned from what date the 5 workmen were provided with employment. Consequently, the 5 workmen are entitled to their wages and other emoluments from 17th May 1965 till the date when they were actually provided with employment. I hold accordingly.

11. 1 (d) Along with the rejoinder filed on 17th February 1966 the management has filed a list of 67 persons stating that they were not the management's employees. To this list one more name is added through list No. 4 filed along with the application on 4th April 1966. The union denied the allegation and explained that the workmen could be ascertained by their designations, and with reference to the B Form registers and bonus cards. The B Form registers are Exts. N12 to N17 and bonus cards Exts. W9 to W47. Shri B. Lal, the learned Advocate for the union has filed a list showing Sl. No., Sl. No. in the reference, name in the reference, EB No. as given in the reference, correct EB No., Exhibit No. of the B Form register, page No. of the B form register and exhibit No. of bonus card of the 68 workmen. I have checked these names with the B form register and bonus cards and find the list correct. The list is marked Ext. W. 19. It is evident from the above that some of the EB Nos. of the workmen are wrongly mentioned in the reference but the names of the workmen and their designations and other particulars are correct and they could be traced from the bonus registers. Some of the EB numbers having been mentioned wrongly in the order of reference does not mean that the workmen were not the employees of the management. As already held by my predecessor, these are mis-descriptions and not non-descriptions and as such, they can be corrected by the Tribunal. Hence, I do not find any substance in the plea of the management and hold that the 68 workmen were the employees of the management.

12. 1(e) The management has pointed out that Sl. Nos. 31 and 43 mentioned in the annexure to the schedule of reference related to one and the same person. The union also has conceded the fact. Further, MW1. has pointed out that Sl. Nos. 106 and 164 of the annexure also relate to one and the same person. I have checked and found the contention of the management as correct. Consequently, Sl. Nos. 31 and 106 in the annexure to the schedule of reference are struck off. Thus the total number of workmen involved in the reference is only 328.

13. As a result of my above discussion I find that on questions of fact as established on evidence the management was not justified in refusing employment to the 328 workmen with effect from 17th May, 1965.

14. III(a) & (b) Shri Bala Bhadra Prasad Singh, the learned Advocate for the management has addressed his arguments on some questions of law. Foremost of them is that the strike from 1st April, 1965 to 17th May, 1965 was illegal and that the management, as employees was justified in terminating the services of the workmen, their employees, when they went on illegal strike. In this connection he has maintained that for more than six weeks the coal raising work at the two collieries was at stand still owing to the adamant attitude of the workmen in refusing to return for duties, owing to which the management has sustained immense loss, that the management, in order to avoid further loss, was left with no option other than the one to issue as many as five notices to the workmen to return to work and when they chose to remain absent, to recruit new hands in their places. He further argued that if the workmen were to be reemployed the new recruits have to be discharged which in its turn is likely to lead to further disputes and complications. However, one may sympathise with the management, the action taken by the management otherwise than in accordance with law cannot be justified. I consider that it is not within the purview of the Tribunal to embark upon the question whether the strike was legal or illegal. In terms of the reference I have only to see if the refusal on the part of the management employment to the affected workmen from 17th May, 1965 was justified. In this view I am supported by the decision of the Supreme Court in Delhi Cloth & General Mills Co. Ltd. and their workmen and others (1967-1-L.L.J. 423), in which it is specifically pointed out that the Tribunal must confine its adjudication to the points of dispute referred to and matters incidental thereto and that the Tribunal is not free to enlarge the scope of dispute referred to it. I do not consider that the strike from 1st April, 1965 to 17th May, 1965 being legal or illegal is incidental to the points of dispute referred for adjudication. The question of the strike being legal or illegal has no bearing on the question of justification on the part of the management in refusing employment to the affected workmen with effect from 17th May, 1965. There is no provision of law or of the Certified Standing Orders, Ext. M298 under which services of the workmen participating in a strike, even in an illegal strike, can be dispensed with. Illegal strike is described in Section 24 of the Industrial Disputes Act, 1947 and Section 26 thereof penalises the workmen participating in an illegal strike with imprisonment or fine or with both. But nowhere is it laid down that services of such workmen can be dispensed with. As indicated by the Supreme Court in M/s. Burn & Co. Ltd. and their workmen (A.I.R. 1959-S.C. page 529 at page 531), it cannot be said that mere participation in the strike, even if it is illegal, would justify dismissal of the workmen. In view of the law laid down by the Supreme Court in Delhi Cloth & General Mills Co Ltd, and their workmen and others (1967-1-L.L.J.-423), I consider that legality or illegality, justification or otherwise of the alleged dismissal by the management of the 114 affected workmen as a result of departmental enquiry some time subsequent to 17th May, 1965 also does not fall within the scope of the Tribunal in enquiring the present reference.

15. III(c) It is next urged by the learned Advocate that, by force of the final notice, Ext. W.6 the management was justified in terminating the services of the affected workmen. The notice, Ext. W.6 is extracted below :

"NOTICE NO. 5

Dated, the 27th April, 1965

To miners and loaders and other workers of No. 1, 2, 3 & 7 Pits Jealgora colliery & No. 1 & 2 Pits and 24 & 23 inclines Bararee Colliery, absenting from duties.

The management issued a number of notices on different dates (on 5th April, 1965, 7th April, 1965, 8th April, 1965 and 14th April, 1965) warning the above mentioned workmen, who are absenting themselves without any notice with effect from 1st April, 1965, that they should report for duty immediately.

As some of the workers of the above mentioned groups were still defaulting in reporting for duty, notice No. 4 dated 14th April, 1965 was issued giving final notice to all such absentee workers that if they failed to resume their duties latest by 16th April, 1965, the management would have no alternative but to take recourse to replacements in places of such absentee workmen. The management have in good faith waited upto this date for defaulting workmen and can no longer tolerate absenteeism indefinitely and as such from 2nd shift today all such absentee workers are hereby notified that their lien of service has expired and that the management has decided to fill the vacant posts as they deem fit."

It is manifest from the above notice that the lien of service of such of the absentee workmen who had not reported to duty by the 2nd shift on 27th April, 1965 was terminated. The learned Advocate describes this act of the management as termination of service of absentee workmen. It is conceded that 'termination' or 'discharge' is not synonymous with 'dismissal' from service. The powers of the management to 'terminate'

and 'dismiss' an employee are dealt with respectively in clauses 21 and 27 of the Certified Standing Orders, Ext. 298. A reading of these two clauses makes it clear that the termination under clause 21 should be a 'termination simpliciter', while under clause 27 'dismissal' is by way of punishment if an employee is found guilty of misconduct. For 'termination' no prior enquiry of any kind is contemplated, while for 'dismissal' information in writing to the employee of alleged misconduct and an enquiry in accordance with the principles of natural justice are conditions precedent. In order to bring removal of an employee from service within the scope of 'termination', it must be without attributing any misconduct, disobedience or any such act which reflects on his character as an employee of the management. No employee can be asked to go home leaving the service with a stigma on his character without giving him an opportunity to explain or defend himself. Service of an employee cannot be put to an end to alleging any misconduct or disobedience and at the same time call it 'termination'. In the instant case the lien of service of the workmen has been put an end to by the notice, Ext. W. 6 for alleged disobedience of the workmen in not complying with the earlier notices issued to them and in not reporting for duty even by the 2nd shift on 27th April, 1965. Hence, loss of lien in terms of the notice, Ext. W. 6 cannot be 'termination'. Disobedience is a misconduct under clause 27 of the Certified Standing Orders, Ext. M298 and the management could not punish the workmen for disobedience without complying with the provisions under clause 28 of the Certified Standing Orders, viz. the charge-sheet and enquiry. Thus, I do not find any substance in the contention of the learned Advocate for the management that by force of the notice, Ext. W. 6 services of such workmen who did not report for duty by the 2nd shift on 27th April, 1965 should be deemed as terminated.

16. III(d) The union had vaguely alleged that the management had refused employment to the workmen with effect from 17th May, 1965 with a view to victimise them for being members of the union. In spite of the allegation having been flatly denied by the management, the union did not even give specific reasons why the management should be antagonistic to the union and why it should try to wean out the workmen from its membership. As pointed out by the Supreme Court in *Bengal Bhattee Coal Co. Vs. Ram Prabesh Singh* (1963-1-L.L.J. page 291 at page 293) and *Ananda Bazar Patrika Vs. their employees* (1963-11-L.L.J. page 429 at page 434), victimisation must be specifically alleged and proved by probative evidence. But no such evidence is brought on record on behalf of the union. Hence, I hold the allegation as not proved.

17. III(e) The management had pleaded that the workman at Sl. No. 269 of the annexure to the schedule of reference was not a member of the union at the material time and as such the dispute to the extent of the workman is not an industrial dispute. As per the definition provided in clause (k) of Section 2 of the Industrial Disputes Act, 1947 a dispute between employers and workmen, connected with the non-employment is also an industrial dispute. It is not laid down that each of the workman to whom the employers have refused employment should be a member of the union which sponsored the dispute. Further, my learned predecessor has already given a finding on 23rd April, 1966 that the dispute involved in the reference was an industrial dispute and that the union was competent to sponsor it. The plea is, therefore, held as not sustainable.

18. III(f) The management had raised further objection that none of the workmen mentioned in the annexure to the schedule of reference had raised any dispute with the management, and, as such the reference by the Government was bad in law. It is evident from the failure report of the Assistant Labour Commissioner (C) Dhanbad to the Ministry dated 4th November, 1965 that the union through their letter dated 19th July, 1965 submitted lists of workmen who were refused employment by the management on 17th May, 1965, that the matter was taken up with the management, that on some hearings representatives of the management attended the conciliation meetings and requested adjournment to enable them to verify their records with reference to the workmen and that ultimately the management refused to offer their comments through the letter dated 12th October, 1965. It emerges from the above that before the Government made the order of reference on 25th November, 1965 the management had information about the dispute of the management not providing employment to the workmen on 17th May, 1965 and the management refused for conciliation in the matter. I consider that it does not make any difference that the union had raised the dispute with the management through the Assistant Labour Commissioner (C) Dhanbad and not directly. It is not a case wherein the Government chose to make the order of reference on its own accord without any conciliation proceedings at all. Thus, I find this objection also not sustainable.

19. As a result of my above discussion I find that the action of the management of Bararee and Jealgora Collieries of Messrs East Indian Coal Company Limited, Post Office Jealgora, District Dhanbad in refusing to provide employment to the workmen, whose names are given in Annexure 'A' except S. Nos. 31 and 106 with effect from the 17th

May, 1965 was not justified, and, consequently, each of them is entitled to his wages and other emoluments and benefits as though he was continuing service with effect from the 17th May, 1965 till the date when they are provided with employment or till the date when their services are legally dispensed with. The Award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,
Presiding Officer,
Central Government Industrial Tribunal (No. 2) at
Dhanbad.
[No. 2/123/65-LRII.]

New Delhi, the 6th September 1968

S.O. 3171.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Sanctoria Hospital of Messrs Bengal Coal Company Limited, Post Office Dishergarh, District Burdwan and their workmen, which was received by the Central Government on the 4th September, 1968.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

REFERENCE No. 8 OF 1968

PARTIES:

Employers in relation to the Sanctoria Hospital of Messrs Bengal Coal Company Limited.

AND

Their workmen.

PRESENT:

Shri B. N. Banerjee, Presiding Officer.

APPEARANCES:

On behalf of Employers—Shri B. P. Kabi, Security Officer.

On behalf of Workmen—Shri B. Malkhandy, Vice-President of the Union.

STATE : West Bengal.

INDUSTRY : Coal Mines.

AWARD

By Order No. 6/2/68-LRII dated February 3, 1968, the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) referred the following dispute between the employers in relation to the Sanctoria Hospital of Messrs Bengal Coal Company Limited and their workmen, to this tribunal, for adjudication, namely:

“Whether the dismissal with effect from 10th November, 1967 of Shri Gokul Hari, Sweeper, by the management of Sanctoria Hospital of Messrs Bengal Coal Company Limited, Post Office Dishergarh, District Burdwan was justified? If not, to what relief is the workman entitled?”

2. It appears that Gokul Hari, Sweeper, employed in Sanctoria Hospital, was served with a chargesheet, on October 19, 1967, to the following effect:

“You absented yourself from work on 18th October, 1967 and at about 7 P.M. of the same day you entered the Female Ward of this hospital without permission in a drunken condition and distributed ‘country’ liquor from a bottle which you brought with you to the attendant of a patient in Bed No. 21. You also refused to leave the Female Ward when asked to do so by the Duty Sweeper Sri Baijnath Routh.

You are therefore charged under Section 27 clauses 5 and 18 of the standing orders. On hearing receipt of your reply and decision of your case you are suspended forthwith.”

The clauses in the Standing order, referred to the chargesheet, read as follows:—

"27. An employee may be suspended, fined or dismissed without notice or any compensation in lieu of notice if he is found to be guilty of misconduct, provided that suspension without pay, whether as a punishment or pending an enquiry, shall not exceed ten days. The following shall denote misconduct:

(1) to (4) *****

(5) Drunkenness, fighting, riotous or disorderly or indecent behaviour.

(6) to (17) *****

(18) Leaving work without permission.

In addition to the two clauses mentioned in the chargesheet, Mr. Kabi, who appeared for the employer company, asked me to take into consideration clause (19) of Section 27 as well, which reads:

"(19) Any breach of the Indian Mines Act, or any other Act, or of any rules or bye-laws thereunder, or of Standing Orders."

3. To the above chargesheet, Gokul Hari submitted an explanation in writing, on October 21, 1967, the material portion from which is set out below:

That, on 18th October, 1967 (Wednesday) I was supposed to have been on Morning duty from 6 A.M. to 2 P.M. and accordingly I reported for duty but Havilder sent me back on the pretext that there are excess No. of sweepers come on duty, so I am to back. So I went back home hence the question of absence does not arise at all.

The alleged charge of distributing the liquor to bed No. 21 is absolutely false. I repeatedly say I never carried any sort of wine to the ward nor I went to the Female ward. Moreover you have believed the carpouring words of Sweeper Baij Nath Routh, which appears as if Sweeper Baij Nath Routh is administering the Hospital, otherwise how this sort of occurrence took place without the knowledge of sister on duty in the female ward."

4. Enquiry into the chargesheet was held in the presence of Gokul Hari, on October 27 and October 31, 1967. On the 27th of October eight witnesses were examined on behalf of the management. Of them witness Chandra Bahadur and witness Bijoy Hari were the only two witnesses who were cross-examined by Gokul Hari. On the 31st of October, only one witness, namely Devi Bourin was examined but she was not cross-examined by Gokul Hari.

5. With regard to the first charge of absence from work on October 18, 1967, it is not disputed that the workman concerned did not attend his duty on that day. According to the workman concerned, he reported for duty but Havilder Chandra Bahadur sent him away on the ground that there were too many sweepers attending on that morning. Chandra Bahadur, who deposed before the Enquiring Officer, however, said that Gokul Hari did not at all report for duty on the morning of October 18. What Chandra Bahadur told in his examination-in-chief is set out below:—

"On 18th October, 1967 the delinquent had to perform duty in the hospital in the morning shift from 6 A.M. to 2 P.M. Gokul Hari did not come to duty on that day. It is not a fact that Gokul Hari came to me in the morning and reported for duty. It is also not a fact that I asked him to go back as there were excess number of Sweepers."

He was cross-examined on this point but could not be shaken. On the evidence of Chandra Bahadur, which is the only evidence on this point, the Enquiring Officer, came to the following finding:

"From the evidence of Havildar Chandra Bahadur and from the duty register it is provided that the delinquent was absent from duty on 18th October, 1967 without any permission and reasonable cause."

This duty register was not produced before me. I did not, however, think it necessary to call for the duty register, because the case of the workman also was that he did not attend duty on the 18th, but his reason therefor was different. He could not, however, establish his ground for absence by evidence. Thus, the evidence being one sided, I hold that the charge of absence from work on October 18, 1967, has been made out.

6. With regard to the other charges that at about 7 P.M. on October 18, 1967, Gokul Hari, the workman concerned, entered the female ward of the hospital without permission

in a drunken condition and distributed country liquor from a bottle, which he had brought with him, to the attendant of the patient in bed No. 21, I need consider the following pieces of evidence recorded by the Enquiry Officer:

(a) Havildar Chandra Bahadur speaks about drunkenness of Gokul Hari towards the afternoon of the 18th October in the following language:

"At about 4 p.m. I saw Gokul Hari dead drunk and was roaming about in hospital compound in front of male ward on the northern side. He was creating row there when I asked him to go away. Gokul Hari left the place. Two patients namely Sundar Gararia and a Sadhu were disturbed by Gokul Hari being drunk at that time and I had to ask him to go away."

It is curious that on this point Chandra Bahadur was not cross-examined at all.

(b) Baijnath Kahar (Sadhu), who is a loader in Chinakuri Colliery and who was an in-patient in the hospital at the material time, deposed:

"In the afternoon about a week ago I came out of the ward to the verandah when I found Gokul Hari came to me and told 'Ham larega Tumara Sath'. He also pushed me. Anyhow I got rid of him and came to my bed. Gokul Hari came to my bed and sat there and created disturbance."

He was not cross-examined by Gokul Hari.

(c) Sundar Gararia, who is a loader in Ranipur colliery and who was also an in-patient in the hospital at the material time, said:

"I am under treatment at this hospital as an indoor patient for the last two years. On Wednesday of the last week Gokul Hari came at about 4 p.m. to my bed in a heavily drunken state and caught my arm and started disturbing me. I pushed him aside. He then went away."

This witness was not also cross-examined by Gokul Hari.

(d) Bijoy Hari, who is another sweeper in the hospital, gave the following evidence about the drunken condition of Gokul Hari towards the afternoon of the 18th October:

"It was at about 3.30 p.m. He was heavily drunk. Some relations of Gokul Hari visited his quarter that day and he was drinking from the morning. He approached the Secretary and asked for Rs. 10/- as advance and the Secretary paid him the amount. When he was coming out of the gate, he was telling me that "Ham Lal Jhanda Hai, Is liya Hamko Rupiya De Diya". He then went away. I then went to Sanctoria Bazar to purchase something (Rice etc.) and I was coming back to my quarter at about 8 p.m. by hospital road. I met Gokul Hari in front of gate verandah who gave me an empty bottle smelling liquor to take it to his quarter. I did not see any female there. I went home handed over the empty bottle to Gokul Hari's son."

The cross-examination of this witness was inconsequential.

(e) The main witness to the second charge is, however, Baijnath Routh, who gave the following evidence:

"I am working as a Sweeper in this hospital. On Wednesday (18th October 1967) I was on duty in the Female Ward towards southern side from 2 p.m. to 10 p.m. There was only one Sweeper on duty there. There was also a Nurse on duty in the Female Ward at night, who sits in her room attached to the female ward (duty room). At about 7 p.m. I found Gokul Hari standing just outside a window and in this side a child was in Bed No. 21 and a female was her attendant. Gokul Hari was talking to the female from the verandah. I saw Gokul Hari took out a bottle of liquor from his pant pocket and wanted to pour it in a cup belonging to the female attendant. I objected to this. I asked Gokul to go away but he did not. I reported the matter to Eva Nurse and to the telephone attendant. When I went back to the ward I found Gokul was standing near the railing of the verandah and pouring liquor from the bottle in a cup and gave that to the female attendant. I asked Gokul to go away and by that time Bijoy Hari, Sweeper, was passing by that way whom Gokul Hari gave the bottle. Then Gokul Hari went towards male ward and Bijoy Hari also went away. I reported this matter to Mr. Gomes on the next morning."

Curiously enough this witness was not at all cross-examined.

(f) A. C. Gomes, the Ward Master, supported the version of Baij Nath Routh. I am not impressed by his evidence because his knowledge is based on what he heard from Baij Nath Routh on the next day.

(g) Chittaranjan Acharjee, Telephone Attendant, to whom Baij Nath Routh stated to have reported the matter, gave the following evidence:

"On 18th October, 1967 I was on duty from 2 P.M. to 10 P.M. Baijnath Sweeper who was on duty in the female ward came to me and reported that Gokul Hari was doing something illegal and he asked me to see to this. I went out and saw Gokul Hari standing on the verandah of the female ward and a woman was standing by his side. I saw it from a distance and could not say whether Gokul Hari was drunk or not and what he was doing with the woman. I asked Gokul what he was doing but he did not reply."

He was not cross-examined. His evidence is more or less colourless excepting that it proves the presence of Gokul Hari in the evening at the female ward of the hospital.

(h) The other witness is Eva Emmanuel, the nurse on duty. According to Baij Nath Routh he reported the incident to this nurse. This witness, however, did not bear out Baijnath on this point. Her evidence is set out below:

"On 18th October, 1967, Wednesday I was on duty from 1 P.M. to 8 P.M. in the female ward. In Bed No. 21 there was female child patient and her mother was the attendant. On that shift Sri Baijnath Routh was on duty as a Sweeper in the female ward. There is a duty room attached to the female ward where the nurses stay after duty. Baijnath Routh did not report to me that Gokul Hari was misbehaving with the patients. He reported nothing to me."

(i) Devi Bourin to whom the offer of drink was made by Gokul Hari was also examined as witness. She, however, denied that any offer of drink was made to her. She even went to the length of saying that she never drinks liquor. According to her Gokul Hari used to call her 'Boudi'. This is the state of evidence on which the Enquiring Officer came to the finding that Gokul Hari was guilty of the second charge as well on the following grounds:

"(a) From the evidence of Havildar, 2 patients namely Sundar Goraria and Baijnath Kahar (Sadhoq) and Bijoy Hari it was proved that the delinquent visited the hospital in drunken state and created disturbance in male ward in the afternoon.

(b) Baijnath Routh, Sweeper was an eye witness to the offer of drink to Debi Bourin in female ward by the delinquent. The other witnesses namely C. R. Acherjee, Bijoy Hari and Mr. Gomes corroborated him to far as related to his statement. The delinquent could not assign any ground as to why these witnesses implicated him falsely and supported Baijnath.

(c) Miss Eva Emmanuel, Nurse did not corroborate Baijnath, the reason best known to her but probably she wanted to avoid trouble or she was unmindful at that time.

(d) Debi Bourin is an interested witness and reliance cannot be placed on her evidence.

(e) It is a fact that his union are functioning in this hospital but there was no evidence to show that Gokul Hari was falsely implicated for union activities."

Since Gokul Hari was found guilty on both the counts, the Enquiring Officer recommended his dismissal from service. By a letter dated November 10, 1967, the workmen concerned was dismissed from service on the following language:

We have carefully gone through the records of the enquiry, the connected papers and documents and findings of the Enquiring Officer and concurred with his findings that on the evidence recorded at the enquiry the charges against you have been sufficiently proved.

The charges levelled against you and proved against you at the enquiry being grave and serious the punishment warranted is that of dismissal.

Accordingly you are being dismissed from service with immediate effect. Your final payments of dues can be collected by you from the office on any working day by giving vacant possession of the Company's quarters occupied by you."

I need state here that a bundle of documents filed on behalf of the management were collectively marked Ext. 1 without objection, formal proof being dispensed with and a copy of the Standing order was marked Ext. 2 without objection, formal proof being dispensed with. No witnesses were examined before this Tribunal.

7. Mr. Malkhandy, appearing for the Sanctoria Hospital Nursing Staff and Employees Union, which espoused the cause of the workman concerned, argued several points for my consideration. He contended, in the first place, that in the chargesheet, the time of unauthorised entry of Gokul Hari in the female ward, in a drunken condition, was given as 7 P.M. That was the evidence of Baijnath Routh as well. But this time was not corroborated by any of the witnesses, who were examined on behalf of the management. I am not impressed by the argument. The time given in the charge-sheet was about 7 P.M. That does not necessarily mean 7 P.M. exactly. There is nothing contained in the evidence of the other witnesses which very much contradict the time given.

8. He next argued that the workman was found guilty on the evidence of Baij Nath Routh alone, who was not corroborated by other witnesses. Before I consider this argument, I need remind myself that a tribunal's jurisdiction to interfere with the findings of the domestic enquiry is a very limited jurisdiction. Where there has been a managerial enquiry and if the rules of natural justice have been observed, there has been a full and fair enquiry and there has been no basic error, malafides, victimisation or unfair labour practice, the conclusions arrived at by the domestic forum cannot be disturbed. It was not Mr. Malkhandy's contention that the findings arrived at by the Enquiring Officer had no basis of evidence at all. He submitted that it was only Baij Nath Routh who supported the chargesheet but not Gomes (the Ward Master), not Eva Emmanuel (the nurse on duty) and not Chittaranjan Acharjee (the Telephone attendant). Mr. Malkhandy is right to this extent that (i) I need not take into consideration the evidence of Gomes because his evidence is hearsay, (ii) Nurse Eva Emmanuel does not support the version that a report of the incident was made to her by Baij Nath Routh, (iii) Chittaranjan Acharjee saw Gokul Hari near a woman but not sure what they were doing at that place. Nevertheless, the Enquiry Officer thought it proper to rely upon the evidence of Baij Nath Routh and did not find it necessary to discard this evidence in the absence of corroboration. In so doing the Enquiring Officer did not commit any basic error or an act of perversity. I, therefore, over-rule the second branch of objection by Mr. Malkhandy.

9. The third objection of Mr. Malkhandy was that there was no evidence to the effect that the liquor was distributed from a bottle, which Gokul Hari took inside the female ward. This argument is misconceived because there is direct evidence of Baij Nath Routh to that effect.

10. The next argument urged by Mr. Malkhandy was that Section 27(18) of the Standing order did not contemplate absence without leave, it merely contemplated leaving work without permission, that is to say going away earlier than the expiry of duty hours. In this argument Mr. Malkhandy may be right. But this does not take him far, because if any one of the several charges levelled against the workman has been proved, that will merit a penalty even though the other charges have not been proved. Mr. Kabi for the employer company wanted to repel this argument of Mr. Malkhandy by inviting my attention to clause 19 of Section 27 which I have already set out read with Section 9 of the Standing order, which is as follows:

"All employees shall be at work on the Colliery at the times fixed and notified to them. An employee attending late shall be liable to be treated as absent and have his wages deducted for the period of lateness. Habitual late attendance shall be treated as misconduct."

I do not think that Section 9 helps Mr. Kabi very much. Section 9 deals with time for attendance and has nothing to do with absence without leave. In the view that I take, I hold that the violation of the provision by Section 27(18) has not been established even though Gokul Hari may have been absent on the 18th October without leave.

11. It was then argued by Mr. Malkhandy that Section 28 of the Standing Order was not complied with in passing the order of dismissal. It is necessary for me to set out the material portion of Section 28 herein below:

"The approval of the owner, Agent or Chief Mining Engineer of the Company is required in every case of dismissal and when circumstances appear to warrant it that officer shall institute separate independent enquiries before dealing with the charges against an employee."

It appears from a letter from the Superintendent, Personnel, addressed to Superintendent of Medical Service, dated November 9, 1967 (item 2 of the bundle of document marked as Ext. 1):

"The G. M. has carefully gone into the Enquiring Officers report and all other connected papers in connection with the above case and is satisfied that the charges brought against the delinquent in the above charge-sheet have been established beyond any doubt. He has also observed that yourself have recommended that the delinquent may be dismissed as, in your opinion also,

the charges brought against the delinquent have been fully proved. He also agreed with you and has accepted your recommendation and has accordingly ordered dismissal of the delinquent with effect from the date the G.M.'s order is made known to him."

The order may, therefore, be immediately conveyed to the delinquent." The letter shows that the General Manager gave the approval. So there is nothing in the last objection of Mr. Malkhandy.

12. Thus, although the first charge may not have been established, in the sense of violation of Section 27(18) of the Standing order, the other charge of unauthorised entry in the female ward in a drunken condition and there distributing liquor has been amply established. That Gokul Hari was drunk from the afternoon of the 18th October is also established by evidence. The drunken disorderliness, in which he was indulging in the male ward, is not certainly the subject matter of any charge against him but that is relevant to prove that he was drunk. Now, for a male worker to go inside the female ward in a hospital in a drunken condition, beyond duty hours, and there to have the audacity of distributing drinks to an attendant of a patient is certainly a type of misconduct which a hospital should not tolerate. To permit this sort of misconduct may have dangerous consequences on other patients in the ward. The misconduct was of a nature which merited dismissal of the workman and his dismissal was justified.

13. Before I part with this case, I need make one observation. Had the nurse, Eva Emmanuel, been diligent in her duties and had she called out others to drive away Gokul Hari, this sort of incident might not have taken place inside the female ward. She was apparently not so and that is why it became possible for Gokul Hari to behave in that fashion. She makes her position worse by trying to shield Gokul Hari in her evidence. I wonder why this nurse was not proceeded against by the authorities. But this, however, is not a point for me to decide. I merely express my amazement at the conduct of the employer.

14. Since I find that the dismissal of the workman, Gokul Hari, was justified at least on the second charge of entering the female ward in drunken condition and there indulging in the further misconduct of distributing liquor, I find that the workman is not entitled to any relief.

This is my award.

Dated August 31, 1968.

(Sd.) B. N. BANERJEE,
Presiding Officer.

[No. 6/2/68-LR.II.]

BALWANT SINGH, Under Secy.

(Department of Labour and Employment)

New Delhi, the 9th August, 1968

S.O. 3172.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of Shri A. N. Roy, Arbitrator in the dispute between management of Bhilai Steel Plant, Bhilai and their workmen represented by Khadan Mazdoor Congress, Dalli-Rajhara which was received by the Central Government on the 31st July, 1968.

ARBITRATION AWARD UNDER SECTION 10A OF THE INDUSTRIAL DISPUTES ACT, 1947

PARTIES :

Employers.—M/s. Hindustan Steel Ltd., Bhilai Steel Plant, P.O. Bhilai, Distt. Durg (M.P.)

Workmen.—Represented by Khadan Mazdoor Congress, P.O. Dalli Rajhara Distt. Durg (M.P.)

STATE—Madhya Pradesh

INDUSTRY—Mining

The above named parties through their representatives entered into an agreement for reference of the following specific matter in dispute to the undersigned for arbitration under S. 10A by their agreement dated 2nd February, 1966:

"Whether Md. Yunus is entitled to the post of Shovel Operator with effect from 1st October, 1962; if so, what relief the workman is entitled to."

The above mentioned agreement was published by the Govt. of India, in the Ministry of Labour, Employment and Rehabilitation (Deptt. of Labour & Employment) *vide* their Notification dated 7th May, 1966.

The parties submitted their written statements by June, 1966 and the first hearing was held on 22nd June, 1966 at Bhilai. The union representative failed to turn up at the subsequent hearings held on 6th September, 1966 and 17th September, 1966. The union Secretary, however, attended the next hearing on 14th October, 1966 which was postponed at the request of the parties after some preliminary discussions. The next hearing was fixed on 18th November, 1966 but the union requested for adjournment. Thereafter, the parties refused to extend the date for giving of the award. It was quite apparent from the attitude of the union representative that he was not interested in the dispute. I, accordingly, give a no-dispute award.

(Sd.) A. N. Roy,
Arbitrator & R.L.C.(C), New Delhi.
[No. 37/12/66-LRI].

S.O. 3173.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the Nandini Mines of Bhilai Steel Plant, Bhilai and their workmen, which was received by the Central Government on the 29th July, 1968.

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

Bhilai, dated July 22, 1968

PRESENT :

Sri G. C. Agarwala, Presiding Officer.

CASE REF. NO. CGIT/LC(R)(148) OF 1967

PARTIES :

Employers in relation to the Nandini Mines of Bhilai Steel Plant, Bhilai,
Distt. Durg (M.P.).

Vs.

Their workman, represented by the Secretary, Samyukta Khadan Mazdoor Sangh,
Nandini Mines Branch, P.O. Nandini Mines (Distt. Durg).

APPEARANCES:

For Employers—S/Sri M. R. Raju, Senior Labour Officer and K. G. Marar
Additional Labour Welfare Officer.

For Workmen—Sri P. K. Thakur, Vice-President, Samyukta Khadan Mazdoor Sangh.

INDUSTRY—Lime Stone Mine.

Distt. Durg (M.P.)

AWARD

By Notification No. 37/5/67-LRI, dated 15th November 1967, the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), Government of India, referred the following matter of dispute as stated in the schedule to the order of reference to this Tribunal, for adjudication:

Matter of Dispute

“Whether the claim of Sri K. K. G. Nair, Helper, Nandini Mines of Bhilai Steel Plant, to be regularised in the post of Registration Clerk carrying pay scale of Rs. 110—180 with effect from the 1st July, 1962, is justified? If so, to what relief is he entitled?

2. The dispute is rather misconceived. Sri K. K. Nair, to be hereinafter called as Nair, joined as a helper in the Limestone Manual Mines at Nandini on Nominal Muster Roll at Rs. 2.75 per day with effect from 1st June 1962. The Union, Samyukta Khadan Mazdoor Sangh, Nandini Branch, raised an industrial dispute for non absorption of Nominal Muster Roll employees of Manual Mines and appointment of Nair as Registration Clerk or Register Clerk. The dispute principally concerned Nair for his appointment as Registration Clerk in proper scale of pay (*vide* Ex. E/8) dated 1st February 1965. This was conciliated and

settlement was reached before the Conciliation Officer on 9th April 1965 (Ex. E/9). It was stated that the Union raised a dispute about the absorption of Sri K. K. Nair which was later on extended to 17 others N.M.R. employees and it had been agreed that the workmen in question shall be brought on the time scale within four months. Implementing the settlement the management issued an order dated 9th August, 1965 (Ex. E/10) and absorbed Nair in the scale of Rs. 85—110. The Union was not satisfied with this and again raised a dispute by means of letter dated 18th August 1966 (Ex. E/11) claiming that Nair should be given the post of Registration Clerk in the scale of Rs. 110—180 with effect from 1st June 1962. The management contended that they have implemented the settlement and there is no case left for Nair or the Union to re-agitate the matter. It is true that by an order of the Mines Manager, dated 25th June 1966 (Ex. W/1) both Nair and one Sri Kunjal Sahu were directed to work in Time Office as Registration Clerk, but Nair was in N.M.R. while Sri Kunjal Sahu was not so shown. Apart from this, the Superintendent, Ore Mines and Quarries cancelled all such authorisations by an order of June, 1964 (Ex. E/6). For past authorisations, individuals were required to submit claims within 10 days by an order dated 23rd December 1964 (Ex. E/7). The management filed documents to show the various posts created and sanctioned from 1962 onwards (Ex. E/1 to E/5). There is no post of Registration or Register Clerk sanctioned as such, nor is there a scale prescribed as Rs. 110—180, a grade claimed by Nair. Nair himself did not come in evidence to state what duties were being rendered by him and whether he has a comparable claim with Kunjal Sahu. As a matter of fact, no evidence was tendered by either side and both sides contented themselves by filing and relying on documents. The Union filed only one document which was an order of the Mines Manager dated 25th June 1962 (Ex. W/1) referred to above wherein Kunjal Sahu and Nair were required to work as Register Clerk. The management filed true copies of various circulars Ex. E/1 to E/10. The management has implemented the settlement inasmuch as by order Ex. E/11 dated 9th August, 1965, they have given him the scale of Rs. 85—110. Whatever claim Nair may have had in the past was given up by the Union when conciliating and settling the dispute on 9th April 1965.

Decision:—

There is no merit in the claim. Issue is answered in negative. No order for costs.

(Sd.) G. C. AGARWALA,
Presiding Officer.

22-7-1968.

[No. 37/5/67-LRI.]

New Delhi, the 20th August 1968

S.O. 3174.—In pursuance of section 17 of the Industrial Disputes Act 1947 (14 of 1947) the Central Government hereby publishes the following Award of the Central Government Industrial Tribunal, Bombay, in respect of a complaint under Section 33A of the said Act, filed by Shri P. A. Menon, A.M.E., Air India, which was received by the Central Government on 12th August, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL BOMBAY

COMPLAINT NO. CGIT-12/1968 ARISING OUT OF REFERENCE NO. CGIT-26 OF 1967

PARTIES:

Shri A. P. Menon, 5, Shanti Kunj, 1st Road, Khar, Bombay-52—*Complainant*.

versus

Air India, Nirmal, 241/242 Backbay Reclamation, Nariman Point, Bombay 1—*Respondent*.

PRESENT :

Shri A. T. Zambre, Presiding Officer.

APPEARANCES :

For the complainant.—No appearance.

For the respondent.—Shri S. K. Wadia Solicitor, with Shri P. V. Bhagwat, Superintendent Industrial Relations, Air India.

STATE.—Maharashtra.

INDUSTRY.—Airways.

Bombay, the 30th July 1968

AWARD

Shri P. A. Menon, A.M.E. of the Air India Corporation has filed this complaint against the Corporation under section 33A of the Industrial Disputes Act, 1947.

2. The employees of the Air India Corporation had through the Air Craft Engineers Association made a demand to the Corporation that no one except the Air Craft Maintenance Engineers employed by the Corporation should be required or allowed to inspect or certify the maintenance or overhaul of the air-craft or its components or do both as per terms of the agreement arrived at between the Corporation and the Association. The management had not accepted this claim of the Association and had contended that the agreement had nothing to do with the inspection and certification of air crafts. They have contended that the employment of approved inspectors in the workshop of the Corporation at Santa Cruz was the longstanding practice followed and was in accordance with the Director General of Civil Aviation's requirement for approved inspection. As a result this dispute could not be settled and the employees had resorted to a strike and the matter has been referred to this Tribunal and is pending in Ref. No. CGIT-26 of 1967.

3. The complainant Shri P. A. Menon who was working in the Engineering Department in the scale of Rs. 1000-100-1500 and was drawing a salary of Rs. 1500/- per month was alleged to have taken part in the illegal strike and had not also conducted himself in a manner conducive to the best interests, credit and prestige of the Corporation and was charged for three misconducts viz.,

- (i) instigating workmen to go on a strike in contravention of the provisions of the Industrial Disputes Act and for Air India Employees' Service Regulations.
- (ii) not conducting in a manner conducive to the best interests, credit and prestige of the Corporation.
- (iii) Supplementary charge-participation in an illegal strike.

The Director of Engineering had appointed an enquiry committee to enquire into the charges levelled against Shri Menon. The delinquent workman was already informed about the charges framed against him. He had taken part in the enquiry proceedings. The Enquiry Committee considered the material before it and found that Shri Menon was guilty of the two charges of:—

- (i) not conducting in a manner conducive to the best interests, credit and prestige of the Corporation.
- (ii) participation in an illegal strike.

4. The Enquiry Committee therefore sent its report and the findings to the General Manager who agreed with the findings of the Enquiry Committee and considering the circumstances and the past service of Shri Menon passed an order No. GM/74-15(B)/12580 dated 21st February 1968 and sentenced by reducing him to the grade of AME II in the scale of Rs. 750-50-1000-100-1200 directing that he would draw the maximum of the grade i.e. Rs. 1200/- and being aggrieved by this order Shri Menon has filed this complaint.

5. The complainant has alleged in his complaint that he was directly concerned in the dispute pending before the Tribunal in Ref. No. CGIT-26 of 1967 and the enquiry was merely an offshoot of the strike undertaken by the workmen which resulted in the reference. The Corporation has not obtained any permission of the Tribunal before passing the order and had contravened the provisions of section 33 of the Industrial Disputes Act. The enquiry was illegal *mala fide*, unjust and it was against the principles of natural justice and the same should be set aside.

6. After the complaint notices were issued to the parties. The Corporation has by its statement denied the contentions. They have admitted that the complainant was a workman concerned in the industrial dispute pending before this Tribunal in Ref. No. CGIT-26 of 1967 but have contended that the misconduct for which the complainant has been punished is not connected with the dispute which was referred by the Central Government to this Tribunal before the complainant went on the illegal strike. And as the misconduct for which the complainant has been punished has no connection with the dispute there has been no contravention of section 33 of the Industrial Disputes Act.

7. It has been further contended that the management had held a proper enquiry. It was neither illegal nor *mala fide* nor opposed to the principles of natural justice. The complainant was present during the enquiry and was given full opportunity to put forth his defence. The complainant was defended in the enquiry by another employee of the company and after considering the evidence and submissions made by the parties the enquiry committee came to the conclusion that the complainant was guilty of the two misconducts and as there is no contravention of the provisions of section 33 the complaint should be dismissed.

8. After the statements the complainant sent a letter to this Tribunal seeking permission to withdraw his complaint. Thereafter notices were again issued to the parties. The representatives of the Corporation were present but the workman remained absent though served.

9. It is clear from the complainant's letter that he does not want to proceed with the complaint and requests for permission to withdraw the complaint. The Corporation has no objection and there is no reason why the permission should not be granted. As the complainant does not press his complaint it shall have to be held that the Air India Corporation has not contravened the provisions of section 33 of the Industrial Disputes Act and the complainant is not entitled to any relief. Hence my award accordingly.

10. No order as to costs.

11. Copy of this award is to be submitted to the Government as required by law.

(Sd.) A. T. ZAMBRE,
Presiding Officer,

Central Government Industrial Tribunal,
Bombay.

[No. 4/163/67-LR.III.]

S.O. 3175.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (13 of 1947) the Central Government hereby publishes the following Award of the Central Government Industrial Tribunal, Bombay, in respect of a complaint under Section 33A of the said Act, filed by Shri J. P. D. Tata, A.M.E., Air India, which was received by the Central Government on 12th August, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY

PARTIES:

Shri J. P. D. Tata, 219, S. Vivekanand Road, Bombay-50—*Complainant*.

Versus

Air India, Nirmal 241/242 Backbay Reclamation, Nariman Point, Bombay-1—*Respondent*.

PRESENT:

Shri A. T. Zambre, Presiding Officer.

APPEARANCES:

For the complainant—No appearance.

For the respondent—Shri S. K. Wadia, Solicitor, with Shri P. V. Bhagwat, Superintendent Industrial Relations, Air India.

STATE: Maharashtra

INDUSTRY: Airways

Bombay, dated 30th July 1968

AWARD

Shri J. P. D. Tata, A.M.E. II of the Air India Corporation has filed this complaint against the Corporation under section 33A of the Industrial Disputes Act, 1947.

2. The employees of the Air India Corporation had through the Air Craft Engineers Association made a demand to the Corporation that on one except the Air Craft Maintenance Engineers employed by the Corporation should be required or allowed to inspect or certify the maintenance or overhaul of the air-craft or its components or do both as per terms of the agreement arrived at between the Corporation and the Association. The management had not accepted this claim of the Association and had contended that the agreement had nothing to do with the inspection and certification of air-crafts. They

have contended that the employment of approved inspectors in the workshop, of the Corporation at Santa Cruz was the longstanding practice followed and was in accordance with the Director General of Civil Aviation's requirement for approved inspection. As a result this dispute could not be settled and the employees had resorted to a strike and the matter had been referred to this Tribunal and is pending in Ref. No. CGIT-26 of 1967.

3. The complainant Shri J. P. D. Tata who was working in the engineering department in the scale of Rs. 750—50—1000—100—1200 and was drawing Rs. 1000 was alleged to have taken part in the illegal strike and had not also conducted himself in a manner conducive to the best interests, credit and prestige of the Corporation and was charged for three misconducts:—

- (i) Participating in an illegal strike.
- (ii) Instigating workmen to go on strike in contravention of the provisions of the Industrial Disputes Act and/or Air India Employees' Service Regulations.
- (iii) Not conducting himself in a manner conducive to the best interests, credit and prestige of the Corporation.

The Director of Engineering had appointed an enquiry committee to enquire into the charges levelled against Shri Tata. The delinquent workmen was already informed about the charges framed against him. He had taken part in the enquiry proceedings. The Enquiry Committee considered the material before it and found Shri Tata was guilty of the two charges of:—

- (i) Participating in an illegal strike and
- (ii) Not conducting himself in a manner conducive to the best interests, credit and prestige of the Corporation.

4. The Enquiry Committee therefore sent its report and findings to the General Manager who agreed with the findings of the Enquiry Committee and considering all the relevant circumstances and the past service of Shri Tata passed an order No. E/16-8-3/1042 dated 21st February 1968 and sentenced him by reducing him by two stages in the grade i.e. he was allowed to draw Rs. 900 in that grade instead of Rs. 1000 which he was drawing, and being aggrieved by this order Shri Tata has filed this complaint.

5. The complainant has alleged in his complaint that he was directly concerned in the dispute pending before the Tribunal in Ref. No. CGIT-26 of 1967 and the enquiry was merely an off-shoot of the strike undertaken by the workmen which resulted in the reference. The Corporation has not obtained any permission of the Tribunal before passing the order and had contravened the provisions of section 33 of the Industrial Disputes Act. The enquiry was illegal, *malafide*, unjust and it was also against the principles of natural justice and the same should be set aside.

6. After the complaint, notices were issued to the parties. The Corporation has by its statement denied the contentions. They have admitted that the complainant was a workman concerned in the industrial dispute pending before this Tribunal in Ref. No. CGIT-26 of 1967 but have contended that the misconduct for which the complainant has been punished is not connected with the dispute which was referred by the Central Government to this Tribunal before the complainant went on an illegal strike and as the misconduct for which the complainant has been punished has no connection with the dispute there has been no contravention of section 33 of the Industrial Disputes Act.

7. It has been further contended that the management had held a proper enquiry. It was neither illegal nor *malafide* nor opposed to the principles of natural justice. The complainant was present during the enquiry and was given full opportunity to put forth his defence. The complainant was defended in the enquiry by another employee of the company and after considering the evidence and submissions made by the parties the enquiry committee came to the conclusion that the complainant was guilty of the two misconducts and as there is no contravention of the provisions of section 33 the complaint should be dismissed.

8. After the statements the complainant sent a letter to his Tribunal seeking permission to withdraw his complaint. Thereafter notices were again issued to the parties. The representatives of the Corporation were present but the workman remained absent though served.

9. It is clear from the complainant's letter that he does not want to proceed with the complaint. The Corporation has no objection and there is no reason why the permission should not be granted. As the complainant does not press his complaint it shall have to be held that the Air India Corporation has not contravened the provisions of section 33 of the Industrial Disputes Act and the complainant is not entitled to any relief. Hence my award accordingly.

10. No order as to costs.

11. Copy of this award is to be submitted to the Government as required by law.

(Sd.) A. T. ZAMIRE,
Presiding Officer,

Central Government Industrial Tribunal, Bombay.
[No.4/163/67-LRIII.]

New Delhi, the 22nd August 1968

S.O. 3176.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of Shri P. C. Rai, Arbitrator in the dispute between the management of Bhilai Steel Plant, Bhilai, District Durg in relation to Rajhara Iron Ore Mines and their workmen represented by the Steel Workers Union, Rajhara, District Durg, which was received by the Central Government on the 12th August, 1968.

ARBITRATION AWARD OF SHRI P. C. RAI, REGIONAL LABOUR COMMISSIONER (CENTRAL), JABALPUR IN THE CASE OF SHRI P. C. SINHA, CHARGEMAN (MECH.), PROSPECTING DIVISION OF BHILAI STEEL PLANT, RAJHARA, DISTT. DURG.

RLC File No. J-85(20)/67.

M/O L&E File No. 37/18/67-LRI.

PRESENT :

Shri P. C. Rai, Regional Labour Commissioner
(Central) Arbitrator.

Representing Workmen :

- (1) Shri M. R. Raju, Sr. Labour Officer (C),
Bhilai Steel Plant, Bhilai, Distt. Durg.
- (2) Shri K. G. Morar, Additional Labour Officer,
Bhilai Steel Plant, Bhilai, Distt. Durg.

Representing Employers :

Shri T. A. Menon, Secretary, Steel
Workers Union, Rajhara, Distt. Durg.

Ministry of Labour, Employment & Rehabilitation, Deptt. of Labour and Employment, by notification No. 37/18/67-LRI, dated 14th November, 1967 published in order in the Gazette of India, which included an agreement dated 30th September, 1967 under Section 10-A of the I.D. Act 1947. By this order the dispute was referred to my arbitration. The following is the relevant portion of the Agreement:—

"It is hereby agreed between the parties to refer the following Industrial Dispute to the Arbitration of Shri P. C. Rai, Regional Labour Commissioner (Central), Jabalpur.

1. *Specific matter in dispute.*

Whether Shri P. C. Sinha, Chargeman (Mech.) Prospecting Division, Rajhara (Distt. Durg) is entitled to the grade of Rs. 350—575 with effect from 1st October, 1962? If not, to what relief he is entitled to?

2. *Details of the parties in the dispute.*

General Manager—Employers.

Bhilai Steel Plant, Bhilai (Distt Durg).

Shri P. B. Chakravarthy—*For the workman.*

Secretary, Steel Workers Union, Rajhara (Dist. Durg).

3. *Name of the union representing the workmen in question.*

Steel Worker's Union (INTUC) Rajhara Mines, P.O. Rajhara, (Distt. Durg), M.P.

4. *No. of workers employed in the undertaking affected*—2100.

5. *Estimated No. of workmen affected or likely to be affected, viz. only one.*

We further agree that the decision of the Arbitration shall be binding on us, and it is requested that the Arbitrator shall make his award within 6 months, otherwise it will be open to parties to choose another arbitrator."

2. The parties were requested by my letter dated 31st October, 1967 for their written statements. The management submitted their written statements dated 30th November, 1967 at the time of hearing on 2nd December, 1967. The union's representatives did not turn up on 2nd December, 1967. At the hearing on 21st December, 1967 the union submitted a written statement. Written statements were exchanged by the parties on this date and the parties requested that hearing be fixed after 15th January, 1968 and they consented that the award may be given within 2 months from 21st December, 1967. Hearing was fixed on 8th February, 1968 but proceedings were postponed on receipt of telephonic message from Shri Hemant Deshmukh, General Secretary of Steel Workers Union that Shri Menon had met with an accident. The parties extended the period of giving award upto 17th May, 1968 and later again on 17th May, 1968 they agreed to extend the period of giving award by a further period of 3 months i.e. upto 17th August, 1968.

3. At the hearing on 22nd May, 1968 the parties stated that they had already submitted their written statements (Appendix 'A' and Appendix 'B') and the union produced a copy of circular letter dated 10th April, 1967 and 13th May, 1967 and further made a claim that by Board Resolution No. 5545 scale of pay of the Chargeman Mechanic was Rs. 300—500 whereas the employee Shri P. C. Sinha was appointed in the scale of Rs. 200—300. The union has no other submission to make.

4. The management had given the written statement. The management submitted that Shri P. C. Sinha had been appointed Loading Foreman on 31st July, 1959 in the scale of Rs. 90—250 and was promoted as Chargeman Mechanic w.e.f. 6th October, 1962 in the scale of Rs. 250—380. Shri P. C. Sinha accepted the post without any protest as could be seen by his joining report. Even at that time and also on 21st April, 1964 Shri P. C. Sinha made no protest. Scale of Rs. 200—300 was revised at the time of promotion which was recommended by Departmental Promotion Committee. The management submitted that the circular referred to by the union shows that the practice of intermediary scale was in existence in Bhilai Steel Plant. The management also invited my attention to the decision given in the case of Shri R. P. K. Redy when he was given an intermediary scale at the time of promotion as Dozer Operator i.e., Ministry of Labour and Employment had upheld intermediary scales. The management made a further submission that a similar contention was upheld in the case of Shri Dallip Singh. The management submitted that the concerned employees did not protest at any stage. The management further submitted that in the case of Shri Gopal Gascutter, Nandini mines, Ministry of Labour and Employment had upheld action of the management when the employee accepted the grade without written protest. The management's representative made a submission that it will be seen from the leave account of Shri P. C. Sinha, that from the time of promotion he had become sick and was not able to do work of Chargeman Mechanic and was recommended light duty by the medical officer. The Medical Officer gave Certificate on 6th June, 1964 that he was fit and be given light duties for 2 months. The Bhilai Steel Plant management's representative submitted that a notice of change was issued on 22nd August, 1964 for introducing rational scale of pay as recommended by experts. Union's comparison of Shri Swaran Singh and Shri P. C. Sinha was not correct on the ground that Shri Swaran Singh was initially appointed as C.A. Grade 2 on 15th December, 1958 in the scale of Rs. 250—380 which is a higher scale than that of Shri P. C. Sinha and he was thereafter promoted as C.A. Grade I on 5th July, 1960 in the scale of Rs. 300—500 and he was further absorbed Chargeman Mechanic in the scale of Rs. 350—575 on 6th October, 1962. Shri Singh was relieved by Shri P. C. Sinha vide Order dated 30th September, 1964 and even at that late stage, Shri P. C. Sinha did not protest. The B.S.P. management had no other submission to make. The Steel Workers Union's representative invited my attention to the case of Churndrill Operation of Nandini Mines in which it had been held that the intermediary grades were illegal. The parties had no other submission to make.

5. Shri P. C. Sinha joined as Loading Foreman on 31st July, 1959 in the scale of Rs. 90—250 on a scale of Rs. 115/- and was promoted in the scale of Rs. 200—300 w.e.f. 6th October, 1962 and his pay was re-fixed at Rs. 250/- in the revised scale of Rs. 250—380 as per Bhilai Steel Plant Order No. Estt. IX/O.M.Q735/63/338 dated 6th February, 1963 and a notice of change under Section 9A of the I.D. Act, 1947 was issued on 22nd August, 1964 but there was no objection from Shri P. C. Sinha or the union in respect of introduction of rational scales of pay.

6. In view of these facts I am inclined to accent that as Shri P. C. Sinha did not protest and carried on his work so the notice of change dated 22nd August, 1964 became effective.

But the union claimed that pay of Chargeman Mechanic in Prospecting Section was Rs. 350—575 whereas Shri Sinha was given the grade of Rs. 250—380 whereas Shri Swaran Singh was given actual grade of Rs. 350—575. After taking into consideration the fact of the case, I award that Shri P. C. Sinha be given Acting pay in the scale of Rs. 350—575 for the period 6th October, 1962 to the date notice of change under Section 9A of the Industrial Disputes Act, 1947 became effective i.e., 12th September, 1964 and as he did not protest and the notice of change became effective his future pay shall be regulated in accordance with the "notice of change" w.e.f. 12th September, 1964 in other words I award that Shri P. C. Sinha may be paid from 6th October, 1962 to 11th September, 1964 in accordance with his Acting pay in the scale of Rs. 350—575 and the amount due to Shri P. C. Sinha as a difference of the scale of Rs. 350—575 and Rs. 250—380 for this period be paid to him (Shri P. C. Sinha) on or before 17th October, 1968. Payment of this difference has been awarded from 6th October, 1962 actual date of promotion and not from 1st October, 1962. I am not convinced that any other cost or compensation is payable to Shri P. C. Sinha.

7. I, therefore, give my award in the terms aforesaid.

(Sd.) P. C. RAI,
Regional Labour Commissioner (Central)
Jabalpur.
Arbitrator.

JABALPUR,

Dated the 9th August, 1968.

APPENDIX 'A'

HINDUSTAN STEEL LIMITED BHILAI STEEL PLANT.

BEFORE SHRI P. C. RAI RLC(C), JABALPUR ARBITRATOR

In the matter of Industrial Dispute between the management of Bhilai Steel Plant and their workmen Shri P. C. Sinha, Chargeman (Mech.), Prospecting Division, Rajhara, in regard to the demand for the grade of Rs. 350—575 with effect from 1st October, 1962.

Written statement of the Management of B.S.P.

(1) That Shri P. C. Sinha joined on 31st July, 1959 as loading Foreman on Rs. 115 in the pre-revised scale of Rs. 90—250 as per order No. E-V/6(c) OMQ/71/59/A/4829, dated 2nd November, 1959.

(2) That Shri Sinha was promoted to the Post of Chargeman in the pre-revised scale of Rs. 200—300 w.e.f. 6th October, 1962 as per order No. Estt. X-5(b) OMQ/736/41, dated 6th October, 1962 and his pay was re-fixed on Rs. 250 in the revised scale of Rs. 250—380 as per order No. ESTT/IX/OMQ/736/63/38, dated 6th February, 1963.

(3) That the workman was posted to prospecting Unit at Dalli Pahar, Rajhara.

(4) That Shri Sinha accepted the Post of Chargeman in the offered scale without any grouse and joined on 6th October, 1962 *vide* copy of the joining report at Annexure I.

(5) That the Union has claimed the scale of Rs. 350—575 for Shri Sinha with effect from 1st October, 1962 on which date he was not holding the post of Chargeman.

(6) That the said claim is based solely on provisional seniority list (not final) published by the Labour Welfare Officer and an erroneous eruption of such a mistake does not entitle the workman the said higher scale.

(7) That the workman notwithstanding the aforesaid facts, has not worked against the higher post evidently due to the reasons of his posting or of his prolonged absence on leave on medical ground.

(8) that the management of Bhilai Steel Plant had issued a notice under Section 9/A of the Industrial Disputes Act for introducing the rational scales, as recommended by the experts after scientific study which *inter alia*, include the scale of Chargeman (Mech.) The scale prescribed was Rs. 250—380 which was not objected to by the opposite party.

(9) That Shri P. C. Sinha, has, therefore, been rightly given the scale of the post which was, as stated hereinabove, accepted by the workman. The belated claim is sponsored only at the instance of the Union, the demand of whom for grant of the higher scale w.e.f. 1st October, 1962 is presumptuous and frivolous, un-supported with factual considerations of facts.

(10) That the management of B.S.P., prays, therefore, that the Hon'ble Arbitrator be pleased to dismiss the claim of the workman in-toto and upheld contention of the management on merits.

(11) That the management of BSP reserves the rights to adduce, add, alter or omit partially or wholly the above statement in consideration of the written statement of the Union or otherwise.

Sd./- M. R. RAJU,
Senior Labour Officer (Conciliation)
for Hindustan Steel Limited,
Bhilai Steel Plant.

Bhilai, dated the November, 1967.

APPENDIX 'B'

STEEL WORKERS UNION BHILAI

17B, Street No. 1, Sector I.

Bhilai 1-M..P.

Rajhara Branch.

BEFORE SHRI P. C. RAJ, ARBITRATOR AND REGIONAL LABOUR
COMMISSIONER (C), JABALPUR.

In the matter of Arbitrator

BETWEEN

The employer in relation to Bhilai Steel Plant of Hindustan Steel Limited PO Bhilai
District Durg M.P.

AND

Their workmen represented by Steel Workers' Union (INTUC) Bhilai in respect of
Industrial Dispute of Illegal fixation of Salary.

Written statement on behalf of the Union.

May it Please the Arbitrator:—

The steel workers' Union (INTUC) Bhilai (Hereinafter shall be called as the Union) beg to submit that this union raised an Industrial Dispute with Labour Inspector (Central) in the matter of Illegal fixation of Salary of one workman Shri P. C. Sinha Chargeman (Mech.) Presecting Division, Ore Mines Quarries (Deptt. owned by Bhilai Steel Plant of Hindustan Steel Limited (hereinafter shall be called the Company). The conciliation ended in failure resulting to the reference to your honour's arbitration.

STEEL WORKERS UNION, BHILAI

17-B, Street No. 1 Sector 1. Bhilai-1 M.P.

Rajhara Branch.

Back Ground of the Case.

1. That this workmen joined the Bhilai Steel Plant on 31st July, 1959 as Loading Foreman in the scale of 90—250 with five advance increments fixing the basic as Rs. 115 in Regular Estt. at the time of joining he had produced certificate from the industries officer Government of Bombay that the last salary drawn was Rs. 250 plus allowances. No benefit was given to the worker but that no other regular posts in operation side existed at that time. Keeping in view his experience of over twelve years with Mine owners and exporters of Iron and Manganese Ores, he was posted in Ore Mines and Quarries deptt. He held a Diploma in Automobile Engg. (Three years Course), from Nagpur University in 1944. The value of the Diploma course be judged from the fact that Shri Purtej Singh (present General Manager of BSP) was the Lecturer in Civil Engineering in the same Institute, when the workman joined in 1941.

By S.O. M.Q's order No. OMQ/11/9/61/552, dated, 19th January, 1961 he was posted under Sr. Geologist to look after the Quartzite works (New Danitola Mines at Banitola, Subsequently by order No. MMD/G/61/72/1964, dated 17th August, 1961 of Mines Manager Dall the workman was to look after Rajhara and Kokan during the Leave period.

of Ch. Subramaniam Asstt. Geologist. The workman did his work to the entire satisfaction of his superiors.

In 1962 a post of a Loading Foreman was created in the scale of Rs. 300—500 old scale. Being the only Loading Foreman in the OMQ the workman put his claim for the post, but due to his excellent services in Prospecting Division and taking his Engineering Qualification he was asked to be promoted as Chargeman Mech. in the scale of Rs. 200—300 against the post of Chargeman Mech. in Rs. 300—500 created *vide* Board's resolution No. 5545 and retained in prospecting. He was given to understand by the then SOMQ that the workman would be regularised in the Regular scale. This is also borne out by the seniority list No. Estt. 9-B/-Seniority/63/2268, dated 30th September, 1963 where he was shown Sr. 4 P.C. Sinha Chargeman Mechanical 6th October, 1962 F.N. 370—575.

On being posted to Rajhara, Prospecting Garrage, which was originally held by Shri K. V. K. Rao, O.I.C. Dalli Prospecting and handed over to Shri S. S. Thakur Asstt. Drilling Engineer was handed over to Shri P. C. Sinha. His duties and responsibilities were of section incharge that is incharge of Prospecting Garrage of Grade Rs 300—500 unrevised like other section incharges of Prospecting at Rajhara. He is the seniormost Chargeman Mech. in Prospecting Division later subdivided as Iron Ore Prospecting.

Even as Loading Foreman he was given responsible assignment that incharge Danitola, incharge Rajhara siding looking after Rajhara and Kokkan blocks. More and more responsible positions, where measurement, Muster Rolls etc. were to be dealt which would not be given if the management did not consider him capable of the job. There was no reason for Shri Sinha too to protest on 6th October, 1962 in view of SOMQ's assurance that he will be regularised in the proper scale. It was never anticipated that the management will become prejudiced for the quarter issue, in which he became an innocent victim of circumstances, and deprived him of the grade.

The management subsequently took a stand that it has down graded the post at Rajhara in 1964. Shri Sinha was never given any intimation. He only had the seniority list showing him in proper grade. It is submitted that is the only list ever given to Shri Sinha and no other list wherever given before or afterwards till now and naturally that is the list to be taken into account. However a chargeman Mech. in the grade of Rs. 370—585 from Hirri Mines was transferred to Rajhara who joined in July, 1964 and he is still in Rajhara. If the post was downgraded for one workman how can the second workman in the higher scale be justified. That too when both the chargemen Mech. have been rotating as incharge-prospecting Garrage.

Senior Geologist, Iron Ore Prospecting has under his Order No. PA/PRP/OMQ/1(1)/65/1051 dated, 7th July, 1965 allotted work which is usually done by very senior officer in mechanised Mines and senior Geologist's remarks in PA/RRP/OMQ/I/26/678, dated 8th July, 1966 confirm the satisfactory work of Shri Sinha.

Prayer

it is therefore prayed as under :—

- (1) That Shri Sinha, concerned workman in the dispute, be given the grade of Rs. 370—575 with effect from 6th October, 1962.
- (2) That Shri P. C. Sinha be given the scale from 6th October, 1962 and his present pay be fixed accordingly with proper yearly increments.
- (3) That Shri P. C. Sinha be paid the differences of wages that accrues.
- (4) That the seniority of Shri P. C. Sinha Chargeman Mech. be maintained in the seniority list with effect from 6th October, 1962 in Rs. 370—575 and line of promotion be set and,
- (5) costs and any other relieves deem fit by the Hon'ble Arbitrator.

Sd./- P. B. CHAKRABORTY.
Secretary, Steel Workers Union
Bhilai Rajhara Branch.

Verification

I, P. B. Chakraborty, do hereby solemnly affirm on oath that the contents contained from para 1 to 7 are true to my best of my knowledge and belief as received from the best of my sources which I personally believe to be true.

Signed and verified on 21st day of December, 1967.

Sd./- P. B. CHAKRABORTY,
Secretary, Steel Workers & Union
Bhilai Rajhara Branch.
[No. 37/18/67-LRI.]

S.O. 3177.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Presiding Officer, Central Government Industrial Tribunal, Dhanbad, in the matter of an application under section 33A of the said Act, from Shri Jitrai Mahali, B. No. 5221, C/o Mosaboni Mines Labour Union, Post Office Mosaboni Mines (Singhbhum), which was received by the Central Government on the 5th August, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT DHANBAD

In the matter of a complaint under section 33A of the Industrial Disputes Act, 1947.
COMPLAINT NO. 2 OF 1968

PARTIES :

Jitrai Mahali, B. No. 5221, c/o Mosaboni Mines Labour Union, P.O. Mosaboni Mines, (Singhbhum)—*Complainant*.

Vs.

Messrs. Indian Copper Corporation Ltd., P.O. Mosaboni Mines, District Singhbhum, Bihar—*Opposite Party*.

PRESENT :

Shri Kamla Sahai, Presiding Officer.

APPEARANCES :

For the Complainant—None.

For the Opposite Party—Shri K. C. Goel, Legal Officer.

Dhanbad, dated the 30th July, 1968.

AWARD

This is a complaint under section 33A of the Industrial Disputes Act, 1947. It was originally filed before this Tribunal but was later transferred by the Ministry to the Jabalpur Tribunal *vide* its order No. 2/25/67-LR-II, dated the 25th April, 1967. It was registered there as complaint No. 17 of 1967. The complaint was re-transferred to this Tribunal *vide* Government Order No. 24/36/66-LRI, dated the 3rd February, 1968.

2. Shri K. Rama Murthi, M.W.1 has been examined to prove that the dispute between the parties has been settled under a document of settlement dated the 4th August, 1967. The management has filed the settlement in original and it has been marked as Ext. M1. The workman or the union has not appeared. According to the settlement it has been provided that Shri Jitrai Mahali would not press his complaint before the Tribunal. Not having been pressed, the complaint is dismissed. This is my award. Let it be submitted to the Central Government.

(Sd.) KAMLA SAHAI, Presiding Officer.

[No. 24/36/66-LRI-2.]

S.O. 3178.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta in the industrial dispute between the employers in relation to the Khariachina Clay Mines of Patelnagar Minerals and Industries (Private) Limited, Post Office Patelnagar, District Birbhum and their workmen, which was received by the Central Government on the 12th August, 1968.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE NO. 91 OF 1967

PARTIES:

Employers in relation to the Khariachina Clay Mines of Patelnagar Minerals and Industries (Private) Limited,

AND

Their workmen.

PRESENT:

Shri B. N. Banerjee, Presiding Officer.

APPEARANCES:

On behalf of Employers.—Shri R. Das Gupta, Labour Adviser.

On behalf of Workmen.—Shri Gangesh Mukherjee, concerned workman.

Shri Hrishi Banerjee, President, Patelnagar Minerals & Industries (P) Ltd. Workmens' Union,

Shri P. P. Pathak, an Officer of the Union.

STATE : West Bengal.

INDUSTRY : Mining.

AWARD

By an Order No. 24/28/67-LRI, dated the 2nd December, 1967, the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), referred the following dispute between the management of Khariachina Clay Mines of Patelnagar Minerals and Industries (Private) Limited and their workmen, to this tribunal, namely:—

"Whether the management of the Khariachina Clay Mines of Patelnagar Minerals and Industries (Private) Limited, Post Office Patelnagar, District Birbhum was justified in dismissing Shri Gangesh Mukherjee working in Machine Section and also in General Section on surface from his service with effect from the 18th June, 1967? If not, to what relief is the workman entitled?"

2. The case of the workman was taken up by the Patelnagar Minerals and Industries (Private) Limited Workers Union and the President of that union filed a written statement on January 8, 1968. On July 5, 1968, there was a joint petition of compromise filed by the management and the workman concerned. The petition is signed by the workman, Gangesh Mukherjee and R. Das Gupta, Labour Adviser, representing the employers. Both the signatures were witnessed by the Regional Labour Commissioner (Central), Calcutta, on the petition. The compromise was in the following terms:—

(a) The service of Sri Gangesh Mukherjee stands terminated as on the date of his dismissal.

(b) The employers shall pay him an amount of Rs. 700 (Rupees Seven Hundred only) in full and final settlement, and Shri Gangesh Mukherjee shall have no further claim on the employers.

3. The President of Patelnagar Minerals and Industries (Private) Limited Workers Union, namely, Shri Hrishikesh Banerjee, and one Shri P. P. Pathak, an Officer of the said union, are present in court to-day. Both of them said that they had no knowledge of the settlement but made it clear that if the workman concerned had settled the dispute with the employers, the union would not object to the settlement. Gangesh Mukherjee and R. Das Gupta proved the settlement and their respective signatures, on the petition of compromise. A receipt showing payment of Rs. 700 to Gangesh Mukherjee by the Employers (Ext. A) was also proved in this case. The receipt is also witnessed by the Regional Labour Commission. On the evidence I am satisfied that the dispute has been settled between the parties fully and lawfully. I therefore record the settlement and pass an award in terms of the settlement. Let the petition of compromise form part of this award.

(Sd.) B. N. BANERJEE,

Dated the 6th August, 1968.

Presiding Officer.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

In the matter of an industrial dispute

AND

In the matter of an industrial dispute

BETWEEN

Employers in relation to Khariachina Clay Mines of Patelnagar Minerals & Industries Private Limited, P.O. Patelnagar, Birbhum

AND

Their Workmen.

The employers above named and Sri Gangesh Mukherjee, the workman concerned in the above matter jointly beg to submit

Most Respectfully :

1. That the above reference is a dispute arising out of the dismissal of the workman named above.

2. That being desirous of not pursuing the matter the workman approached the management for amicable settlement and on mutual discussion the dispute was settled on the following terms and conditions :

- (a) The service of Sri Gangesh Mukherjee stands terminated as on the date of his dismissal.
- (b) The employers shall pay him an amount of Rs. 700 (Rupees Seven Hundred) only in full and final settlement, and Sri Gangesh Mukherjee shall have no further claim on the employers.

The parties, therefore, pray that the settlement of the dispute on the above terms and conditions be approved and an Award be passed in terms of this settlement.

And for this act of kindness, your petitioners as in duty bound shall ever pray.

(Sd.) GANGESH MUKHERJI.
5-7-68.

(Sd.) Illegible,
5-7-68.

Labour Adviser, representing the employees.

Witnessed

(Sd.) Illegible,

Regional Labour Commissioner (Central),
Calcutta.

[No. 24/28/67-LRI]

S.O. 3179.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Presiding Officer, Central Government Industrial Tribunal, Dhanbad, in the matter of an application under section 33A of the said Act, from Shri M. M. Paty, B. No. 6236, Assistant Sampler, C/o Mosaboni Mines Labour Union, Post Office Mosaboni Mines (Singhbhum), which was received by the Central Government on the 5th August, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT DHANBAD

In the matter of a complaint under section 33A of the Industrial Disputes Act, 1947

COMPLAINT No. 3 OF 1968

PARTIES:

Shri M. M. Paty, B. No. 6236, Assistant Sampler, C/o Mosaboni Mines Labour Union, P.O. Mosaboni Mines (Singhbhum)—*Complainant*.

Vs.

M/s. Indian Copper Corporation Ltd., P.O. Mosaboni Mines, District Singhbhum, Bihar—*Opposite Party*.

PRESENT:

Shri Kamla Sahai, Presiding Officer.

APPEARANCES:

For the Complainant.—None.

For the Opposite Party.—Shri K. C. Goel, Legal Officer,

STATE : Bihar.

INDUSTRY : Copper.

Dhanbad, dated the 30th July 1968

AWARD

This is a complaint under section 33A of the Industrial Disputes Act, 1947. It was originally filed before this Tribunal but was later transferred by the Ministry to the Jabalpur Tribunal, *vide* its Order No. 2/25/67-LR II, dated the 25th April, 1967. It was registered there as complaint case No. 20 of 1967. The complaint was re-transferred to this Tribunal *vide* Government Order No. 24/36/66-LRI, dated the 3rd February, 1968.

Shri K. Rama Murthi, M.W. 1 has been examined to prove that the dispute between the parties has been settled under a document of settlement dated the 4th August, 1967. The management has filed the settlement in original and it has been marked as Ext. M-1. The workman or the union has not appeared. According to the settlement, it has been provided that Shri M. M. Paty would not press his complaint before the Tribunal. Not having been pressed, the complaint is dismissed. This is my award. Let it be submitted to the Government.

(Sd.) Illegible,

Presiding Officer,

Central Government Industrial Tribunal-cum-Labour Court
at Dhanbad.

[No. 24/36/66-LRI-1.]

New Delhi, the 3rd September 1968

S.O. 3180.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta in the industrial dispute between the employers in relation to the Kharia China Clay Mines of Patelnagar Minerals and Industries (Private) Limited Post Office Patelnagar, District Birbhum and their workmen, which was received by the Central Government on the 26th August, 1968.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE NO. 75 OF 1967

PARTIES:

Employers in relation to the Kharia China Clay Mines of Patelnagar Minerals and Industries (Private) Limited,

AND

Their workmen.

PRESENT :

Shri B. N. Banerjee—Presiding Officer.

APPEARANCES:

On behalf of Employers—Shri R. Das Gupta, Labour Adviser.

On behalf of Workmen—Shri Satyen Banerjee, Advocate, for Patelnagar, Ceramic Industries Employees' Union, and

Shri Rishi Banerjee, President, Patelnagar Minerals and Industries (Private) Limited Workers' Union.

STATE: West Bengal

INDUSTRY: Mining.

AWARD

By an order No. F. No. 24/26/67/LRI, dated September 28, 1967, the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), referred the following dispute between the employers in relation to Kharia China Clay Mines of Patelnagar Minerals and Industries (Private) Limited and their workmen to this tribunal, namely :—

- I. (a) Whether the demand of the workmen of Kharia China Clay Mines of Messrs. Patelnagar Minerals and Industries (Private) Limited, Post office Patelnagar, District Birbhum, West Bengal for revision of the wages and dearness allowance is justified ?
- (b) If so, to what relief are the workmen entitled and from what date ?
- II. (a) Whether the demand of the workmen of Kharia China Clay Mines of M/s. Patelnagar Minerals and Industries (Private) Limited, for payment of bonus for the accounting years 1964-65 and 1966 is justified ?
- (b) If so, to what relief are the workmen entitled ?
- III. (a) Whether the demand of the workmen for the abolition of the contract labour system in the Kharia China Clay Mines of M/s. Patelnagar Minerals and Industries (Private) Limited is justified ?
- (b) If so, from what date ?

2. Notice of the reference was given to the Secretary, Patelnagar Minerals and Industries (Private) Limited and to the President, Patelnagar Minerals and Industries (Private) Limited Workmen's union, which union took up the dispute of the workmen. While the matter was pending before this tribunal, a large number of workmen working in the Kharia China Clay Mines of Patelnagar Minerals and Industries (Private) Limited organised themselves into a separate union known as Patelnagar Ceramic Industries Employees' Union. This union made an application on January 22, 1968, praying:

"* * * to allow Sarvashri N. C. Ghose and Aparnapada Mitra, General Secretary and Vice-President respectively of Patelnagar Ceramic Industries Employees Union and Shri Satyen Banerjee, Advocate, to act on behalf of and to represent the petitioners in the present adjudication proceedings and accept the written statement under the signature of said Shri Aparnapada Mitra, Vice-President of Patelnagar Ceramic Industries Employees Union as the written statement of petitioners in the aforesaid matter."

This application was allowed on August 2, 1968. The date for peremptory hearing of the case was fixed for to-day.

3. A joint petition of compromise between the employers in relation to Kharia China Clay Mines of Patelnagar Minerals and Industries (Private) Limited and their workmen represented by Patelnagar Ceramic Industries Employees Union and also the rest of the workmen represented by Patelnagar Minerals and Industries (Private) Limited Workmen's union has been filed before this tribunal to-day. Thereby, the parties have settled the dispute referred to the tribunal by mutual agreement. The terms on which the disputes have been settled are recorded in the petition of settlement itself. In my opinion, the disputes have been lawfully and satisfactorily settled between the parties and I make an award in terms of the agreement as contained in the joint petition of compromise. Let the petition of compromise form part of this award.

(Sd.) B. N. BANERJEE,
Presiding Officer.

Dated, August, 19, 1968.

[The petition of compromise mentioned in the award]

BEFORE SHRI B. N. BANERJEE, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

In the matter of Reference No. 75 of 1967

AND

In the matter of an industrial dispute

BETWEEN

The employers in relation to Kharia China Clay Mines of Patelnagar Minerals and Industries Private Limited, P. O. Patelnagar, Birbhum.

AND

Their workmen represented by Patelnagar Ceramic Industries Employees Union, P. O. Patelnagar, Birbhum, and the rest of the workmen, represented by Patelnagar Minerals and Industries Private Limited, Workmen's Union.

The humble joint petition by the parties named above.

Most respectfully Sheweth:

1. That the disputes in the aforesaid matter have been amicably settled between the parties on the following terms and conditions:—

(a) The parties hereby decide that the existing mode of payment of wages on a consolidated basis which includes Basic Wages and Dearness Allowance shall be retained.

(b) The parties hereby agree that the minimum rate of wages per day for work on six (6) days a week shall be as under:

(i) Permanent workmen:

Male -- Rs. 2.80 paise.

Female — Rs. 2.20 paise.

(ii) Casual workmen:

Male — Rs. 2.60 paise.

Female -- Rs. 2.00 paise.

(c) The parties hereby agree and accept that Bonus for the accounting years 1964-65 and 1965-66 has been paid in accordance with the Payment of Bonus Act, 1965.

(d) The employers agree that no workman shall be employed in future through Contractor for regular work of the Mines. The workmen agree and accept that presently no workman is employed through Contractor for regular work of the Mines.

(e) This settlement shall be effective from 25th August 1968.

2. The parties submit and contend that the terms and conditions of this settlement are just and reasonable and as such may be incorporated in the Award by the Honourable Tribunal.

In the circumstances, the petitioners humbly pray that the Honourable Tribunal may be graciously pleased to hold that the terms and conditions of this settlement are just and reasonable and make an Award in terms of this settlement and pass such further order or orders as may be deemed fit and proper.

And for this act of kindness the petitioners as in duty bound shall ever pray.

For and on behalf of the workmen.

For and on behalf of the employers.
For Patelnagar Minerals & Industries Private Ltd.

(Sd.) NARAYAN CHANDRA GHOSH,

(Sd.) APARNAPADA MITRA.

(Sd.) SATYEN BANERJEE.

(Sd.) RISHI BANERJEE.

(Sd.) NARAYAN GHOSE,

Managing Director.

(Sd.) R. DAS GUPTA,

Dated, the 19th August, 1968.

[No. 24/26/67-LRI.]

O. P. TALWAR, Under Secy.

MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 22nd August 1968

S.O. 3181.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules, namely:—

THE RAILWAY SERVANTS (DISCIPLINE AND APPEAL) RULES, 1968

PART I—General

1. **Short title and commencement.**—(1) These rules may be called the Railway Servants (Discipline and Appeal) Rules, 1968.

(2) They shall come into force on the 1st day of October, 1968.

2. **Definitions.**—(1) In these rules, unless the context otherwise requires,—

(a) 'appointing authority' in relation to a railway servant means—

(i) the authority empowered to make appointments to the Service of which the railway servant is for the time being a member or to the grade of the Service in which the railway servant is for the time being included, or

(ii) the authority empowered to make appointments to the post which the railway servant for the time being holds, or

(iii) the authority which appointed the railway servant to such Service, grade or post; as the case may be, or

(iv) where the railway servant having been a permanent member of any other Service or having substantively held any other permanent post, has been in continuous employment under the Ministry of Railways, the authority which appointed him to that Service or to any grade in that Service or to that post,

whichever authority is the highest authority.

(b) 'Commission' means the Union Public Service Commission;

- (c) 'disciplinary authority' means,
 - (i) in relation to the imposition of a penalty on a railway servant, the authority competent under these rules to impose on him that penalty;
 - (ii) in relation to rule 9 and clauses (a) and (b) of sub-rule (1) of rule 11 in the case of any Gazetted railway servant, an authority competent to impose any of the penalties specified in rule 6;
 - (iii) in relation to rule 9 in the case of any non-Gazetted railway servant, an authority competent to impose any of the major penalties specified in rule 6;
 - (iv) in relation to clauses (a) and (b) of sub-rule (1) of rule 11 in the case of a non-Gazetted railway servant, an authority competent to impose any of the penalties specified in rule 6.
 - (d) 'head of the department' for the purpose of exercising the powers as appointing, disciplinary, appellate or reviewing authority, means the authority declared to be the head of the department in terms of clause (9) of rule 2202 of Volume II of the Indian Railway Establishment Code.
 - (e) 'railway servant' means a railway servant as defined in clause (13) of rule 102 of Volume I of the Indian Railway Establishment Code and includes any such railway servant on foreign service or whose services are temporarily placed at the disposal of any other department of the Central Government or a State Government or a local or other authority.
 - (f) 'Service' means a service under the Ministry of Railways.
 - (g) 'Schedule' means a schedule appended to these rules:
- (2) All other words and expressions used but not defined in these rules and defined in the Indian Railways Act, 1890 (9 of 1890) shall have the meanings respectively assigned to them under that Act.

3. Application.—(1) These rules shall apply to every railway servant but shall not apply to—

- (a) any member of the All India Services;
- (b) any member of the Railway Protection Force as defined in the Railway Protection Force Act, 1957 (23 of 1957);
- (c) any person in casual employment; and
- (d) any person for whom special provision is made, in respect of matters covered by these rules by or under any law for the time being in force or by or under any agreement entered into by or with the previous approval of the President before or after the commencement of these rules, in regard to matters covered by such special provisions.

(2) Notwithstanding anything contained in sub-rule (1), the President may by order exclude any class of railway servants from the operation of all or any of these rules.

PART II.—*Suspension*

4. Authorities competent to place a railway servant under suspension.—The authorities who are competent to place a railway servant under suspension are specified in Schedules I, II and III;

Explanation.—For the purpose of this rule, the competent authority in the case of a railway servant officiating in a higher post shall be determined with reference to the officiating post held by him at the time of taking action.

5. Suspension.—(1) A railway servant may be placed under suspension—

- (a) where a disciplinary proceeding against him is contemplated or is pending; or
- (b) where, in the opinion of the authority competent to place a railway servant under suspension, he has engaged himself in activities prejudicial to the interest of the security of the state; or
- (c) where a case against him in respect of any criminal offence is under investigation, inquiry or trial;

Provided that, where in exceptional circumstances any authority competent to pass orders of suspension makes such an order in respect of a railway servant whom he is not competent to suspend, that authority shall forthwith report

to the authority competent to place such a railway servant under suspension the circumstances in which the order was made and obtain his approval.

(2) A railway servant shall be deemed to have been placed under suspension by an order of the competent authority—

- (a) with effect from the date of his detention, if he is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours;
- (b) with effect from the date of his conviction, if, in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction;

Explanation.—The period of forty-eight hours referred to in clause (b) of this sub-rule shall be computed from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment, if any, shall be taken into account.

(3) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a railway servant under suspension is set aside in appeal or on review under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.

(4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a railway servant is set aside or declared or rendered void in consequence of or by a decision of a court of law and the disciplinary authority on consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the railway servant shall be deemed to have been placed under suspension by the competent authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.

(5) (a) An order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so.

(b) Where a railway servant is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceeding or otherwise), and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the railway servant shall continue to be under suspension until the termination of all or any of such proceedings.

(c) An order of suspension made or deemed to have been made under this rule may at any time be modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.

PART III—Penalties and disciplinary Authorities

6. **Penalties.**—(1) The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a railway servant, namely :—

Minor Penalties :

- (i) Censure;
- (ii) withholding of his promotion for a specified period;
- (iii) recovery from his pay of the whole or part of any pecuniary loss caused by him to the Government or Railway Administration by negligence or breach of orders;
- (iv) withholding of increments of pay for a specified period with further directions as to whether on the expiry of such period this will or will not have the effect of postponing the future increments of his pay;

Major Penalties :

- (v) reduction to a lower stage in the time-scale of pay for a specified period, with further directions as to whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay;

- (vi) reduction to a lower time-scale of pay, grade, post or Service, with or without further directions regarding conditions of restoration to the grade or post or Service from which the railway servant was reduced and his seniority and pay on such restoration to that grade, post or Service;
- (vii) compulsory retirement;
- (viii) removal from service which shall not be a disqualification for future employment under the Government or railway administration;
- (ix) dismissal from service which shall ordinarily be a disqualification for future employment under the Government or railway administration;

Provided that in cases of persons found guilty of any act or omission which resulted or would have ordinarily resulted in collisions of railway trains, one of the penalties specified in Clauses (viii) and (ix) shall ordinarily be imposed and in cases of passing railway signals at danger, one of the penalties specified in clauses (v) to (ix) shall ordinarily be imposed and where such penalty is not imposed, the reasons therefor shall be recorded in writing.

(2) Notwithstanding anything contained in sub-rule (1), the following minor penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a non-gazetted railway servant, namely :—

- (i) withholding of the privilege of Passes or Privilege Ticket Orders or both; and
- (ii) fine.

Explanation 1.—The following shall not amount to a penalty within the meaning of this rule, namely :—

- (i) withholding of increments of pay of a railway servant for failure to pass any departmental examination in accordance with the rules or orders governing the Service to which he belongs or post which he holds or the terms of his appointment;
- (ii) stoppage of a railway servant at the efficiency bar in the time-scale of pay on the ground of his unfitness to cross the bar;
- (iii) non-promotion of a railway servant, whether in a substantive or officiating capacity, after consideration of his case, to a Service, grade or post for promotion to which he is eligible;
- (iv) reversion of a railway servant officiating in a higher Service, grade or post to a lower Service, grade or post, on the ground that he is considered to be unsuitable for such higher Service, grade or post or on any administrative ground unconnected with his conduct;
- (v) reversion of a railway servant, appointed on probation to any other Service, grade or post, to his permanent Service, grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the rules and orders governing such probation;
- (vi) replacement of the services of a railway servant, whose services had been borrowed from any other Ministry or Department of the Central Government or a State Government or an authority under the control of the Central Government or a State Government, at the disposal of the Government or the authority from which the services of such railway servant had been borrowed;
- (vii) compulsory retirement of a railway servant in accordance with the provisions relating to his superannuation or retirement;
- (viii) termination of the services—
 - (a) of a railway servant appointed on probation, during or at the end of the period of his probation, in accordance with the terms of his appointment or the rules and orders governing such probation; or
 - (b) of a temporary railway servant in accordance with rule 149 contained in Volume 1 of the Indian Railway Establishment Code; or
 - (c) of a railway servant, employed under an agreement, in accordance with the terms of such agreement;
- (ix) discharge of railway servant—
 - (a) for inefficiency due to failure to conform to the requisite standard of physical fitness;
 - (b) on reduction of establishment.

Explanation 2.—The penalty of fine shall not be imposed on a railway servant who is exclusively employed on clerical work.

7. Disciplinary authorities.—(1) The President may impose any of the penalties specified in rule 6 on any railway servant.

(2) Without prejudice to the provisions of sub-rule (1), any of the penalties specified in rule 6 may be imposed on a railway servant by the authority specified in Schedules I, II and III.

(3) The disciplinary authority in the case of a railway servant officiating in a higher post, shall be determined with reference to the officiating post held by him at the time of taking action.

8. Authority to institute proceedings.—(1) The President or any other authority empowered by him by general or special order may—

- (a) institute disciplinary proceedings against any railway servant;
- (b) direct a disciplinary authority to institute disciplinary proceedings against any railway servant on whom that disciplinary authority is competent to impose under these rules any of the penalties specified in rule 6.

(2) A disciplinary authority competent under these rules to impose any of the penalties specified in clause (i) to (iv) of sub-rule (1) and clauses (i) and (ii) of sub-rule (2), of rule 6 may, subject to the provisions of clause (c) of sub-rule (1) of rule 2, institute disciplinary proceedings against any railway servant for the imposition of any of the penalties specified in clauses (v) to (ix) of sub-rule (1) of rule 6, notwithstanding that such disciplinary authority is not competent under these rules to impose any of the latter penalties.

PART IV—Procedure for imposing Penalties

9. Procedure for imposing major penalties.—(1) No order imposing any of the penalties specified in clauses (v) to (ix) of sub-rule (1) of rule 6 shall be made except after an inquiry held, as far as may be, in the manner provided in this rule and rule 10, or in the manner provided by the Public Servants (Inquiries) Act, 1850 (37 of 1850), where such inquiry is held under that Act.

(2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a railway servant, it may itself inquire into, or appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth thereof.

Explanation.—Where the disciplinary authority itself holds the inquiry, any reference in sub-rule (9) and in sub-rules (11) to sub-rule (19) to the inquiring authority shall be construed as a reference to the disciplinary authority.

(3) Where it is proposed to hold an inquiry against a railway servant under this rule and rule 10, the disciplinary authority shall draw or cause to be drawn up—

- (i) the substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge;
- (ii) a statement of the imputations of misconduct or misbehaviour in support of each article of charge, which shall contain—
 - (a) a statement of all relevant facts including any admission or confession made by the railway servant;
 - (b) a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.

(4) The disciplinary authority shall deliver or cause to be delivered to the railway servant a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained and shall require the railway servant to submit a written statement of his defence within ten days, if he does not require to inspect any documents for the preparation of his defence, and if he requires to inspect any documents, within ten days after completion of the inspection of documents and to state whether he desires to be heard in person.

(5) The railway servant may, for the purpose of preparing his defence—

(i) inspect and take extracts from the document as specified in the list referred to in sub-rule (3) within 5 days of the receipt thereof or within such further time not exceeding 5 days as the disciplinary authority may allow;

(ii) submit a list of witnesses to be examined on his behalf;

NOTE.—If the railway servant applies, in writing, for the supply of copies of the statements of witnesses mentioned in the list referred to in sub-rule (3), the disciplinary authority shall furnish him with a copy each of such statements as early as possible and in any case not later than 3 days before the commencement of the examination of the witnesses on behalf of the disciplinary authority.

(iii) give a notice within ten days of the receipt of the list of documents referred to in sub-rule (3) or within such further time not exceeding ten days as the disciplinary authority may allow for inspection of any other documents which are in the possession of railway administration but not mentioned in the list referred to in sub-rule (3).

NOTE.—The railway servant shall indicate the relevance of the documents required by him for inspection.

(6) The disciplinary authority shall, on receipt of the notice for inspection of documents, permit the railway servant to do so:

Provided that the disciplinary authority may, for reasons to be recorded by it in writing, refuse permission to inspect all or any such documents as are in its opinion not relevant to the case or it would be against the public interest or security of the State to allow him access thereto.

(7) (a) On receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or, if it considers it necessary so to do, appoint, under sub-rule (2) and inquiring authority for the purpose, and where all the articles of charge have been admitted by the railway servant in his written statement of defence, the disciplinary authority shall record its findings on each charge after taking such further evidence as it may think fit and shall act in the manner laid down in rule 10.

(b) If no written statement is submitted by the railway servant, the disciplinary authority may itself inquire into the articles of charge or may, if it considers it necessary to do so, appoint, under sub-rule (2) an inquiring authority for the purpose.

(c) Where the disciplinary authority itself inquires into any article of charge or appoints an inquiring authority for holding an inquiry into such charge, it may, by an order in writing, appoint a railway or any other Government servant to be known as the "Presenting Officer" to present on its behalf the case in support of the articles of charge.

(8) The disciplinary authority shall, where it is not the inquiring authority, forward to the inquiring authority—

(i) a copy of the articles of charge and the statement of the imputations of misconduct or misbehaviour;

(ii) a copy of the written statement of defence, if any, submitted by the railway servant;

(iii) a copy of the statements of witnesses, if any, referred to in sub-rule (3);

(iv) evidence proving the delivery of the documents referred to in sub-rule (3) to the railway servant; and

(v) a copy of the order appointing the "Presenting Officer".

(9) The railway servant may present his case with the assistance of any other railway servant (including a railway servant on leave preparatory to retirement) employed on the same railway administration on which he is working. If the railway servant is employed in the office of the Railway Board, its attached office or subordinate office, he may present his case with the assistance of any other railway servant (including a railway servant on leave preparatory to retirement) employed in the office of the Railway Board, attached office or subordinate office, as the case may be, in which he is working.

NOTE 1.—In the case of a non-gazetted railway servant, he may have the assistance of an official of a Railway Trade Union recognised by the railway administration under

which the railway servant is employed, but shall not engage a legal practitioner. A Trade Union official shall not be allowed to appear in a disciplinary case before an inquiring authority unless he has worked as such in a recognised Railway Trade Union for a period of at least one year continuously before he appears and subject to the condition that he takes no fees.

NOTE 2.—Nomination of an assisting railway servant or a Railway Trade Union official shall not be accepted if at the time of nomination the assisting railway servant or the Railway Trade Union official has more than two pending disciplinary cases in which he has to assist.

(10) After the nomination of the assisting railway servant or a Railway Trade Union official, and the inspection of documents and other necessary steps preliminary to the inquiry are completed, a date ordinarily not exceeding one month shall be fixed for the inquiry and the railway servant informed accordingly.

(11) On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the disciplinary authority. The witnesses shall be examined by or on behalf of the Presenting Officer, if any, and may be cross-examined by or on behalf of the railway servant. The Presenting Officer, if any, shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter without the leave of the inquiring authority. The inquiring authority may also put such questions to the witnesses as it thinks fit.

(12) If it shall appear necessary before the close of the case on behalf of the disciplinary authority, the inquiring authority may, in its discretion, allow the Presenting Officer, if any, to produce evidence not included in the list given to the railway servant or may itself call for new evidence or recall and re-examine any witness and in such case the railway servant shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced and an adjournment of the inquiry for three clear days before the production of such new evidence exclusive of the day of adjournment and the day to which the inquiry is adjourned. The inquiring authority shall give the railway servant an opportunity of inspecting such documents before they are taken on the record. The inquiring authority may also allow the railway servant to produce new evidence, if it is of the opinion that the production of such evidence is necessary in the interests of justice.

NOTE.—New evidence shall not be permitted or called for or any witness shall not be recalled to fill up any gap in the evidence. Such evidence shall be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally.

(13) When the case for the disciplinary authority is closed, the railway servant shall be required to state his defence orally or in writing, as he may prefer. If the defence is made orally, it shall be recorded and the railway servant shall be required to sign the record. In either case a copy of the statement of defence shall be given to the Presenting Officer, if any, appointed.

(14) The evidence on behalf of the railway servant shall then be produced. The railway servant may examine himself in his own behalf if he so prefers. The witnesses produced by the railway servant shall then be examined and shall be liable to cross-examination and re-examination by the inquiring authority according to the provisions applicable to the witnesses for the disciplinary authority.

(15) The inquiring authority may, after the railway servant closes his case, and shall, if the railway servant has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the railway servant to explain any circumstances appearing in the evidence against him.

(16) The inquiring authority may after the completion of the production of evidence hear the Presenting Officer, if any, appointed, and the railway servant, or permit them to file written briefs of their respective cases, if they so desire.

(17) If the railway servant to whom a copy of the articles of charge has been delivered, does not submit the written statement of defence on or before the date specified for the purpose or otherwise fails or refuses to comply with the provisions of this rule, the inquiring authority may hold the inquiry *ex-parte*.

(18) Whenever any inquiring authority after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction therein and is succeeded by another inquiring authority which has, and which exercises, such jurisdiction, the

inquiring authority so succeeding may act on the evidence so recorded by its predecessor, or partly recorded by its predecessor and partly recorded by itself;

Provided that if the succeeding inquiring authority is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of justice, it may recall, examine, cross-examine and re-examine any such witnesses as hereinbefore provided.

(19) (i) After the conclusion of the inquiry, a report shall be prepared and it shall contain—

- (a) the articles of charge and the statement of the imputations of misconduct or misbehaviour;
- (b) the defence of the railway servant in respect of each article of charge;
- (c) an assessment of the evidence in respect of each article of charge;
- (d) the findings on each article of charge and the reasons therefor.

Explanation.—If in the opinion of the inquiring authority the proceedings of the inquiry establish any article of charge different from the original articles of charge, it may record as findings on such article of charge:

Provided that the findings on such article of charge shall not be recorded unless the railway servant has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.

(ii) The inquiring authority, where it is not itself the disciplinary authority, shall forward to the disciplinary authority the records of inquiry, which shall include—

- (a) The report prepared by it under clause (i);
- (b) the written statement of defence, if any, submitted by the railway servant;
- (c) the oral and documentary evidence produced in the course of the inquiry;
- (d) written briefs, if any, filed by the Presenting Officer, if any, or the railway servant or both during the course of the inquiry; and
- (e) the orders, if any, made by the disciplinary authority and the inquiring authority in regard to the inquiry.

(10) **Action on the inquiry report.**—(1) If the disciplinary authority, having regard to its own findings where it is itself the inquiring authority, or having regard to its decision on all or any of the findings of the inquiring authority, is of the opinion that the penalty warranted is such as is within its competence, that authority may act on the evidence on the record or may, if it is of the opinion that further examination of any of the witnesses is necessary in the interests of justice, recall the witness and examine, cross-examine and re-examine the witness and may impose on the railway servant such penalty as is within its competence in accordance with these rules. Where such disciplinary authority is of the opinion that the penalty warranted is such as is not within its competence, that authority shall forward the records of the inquiry to the appropriate disciplinary authority who shall act in the manner as hereinafter provided.

(2) The disciplinary authority, if it is not itself the inquiring authority, may, for reasons to be recorded by it in writing, remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold further inquiry according to the provisions of rule 9 as far as may be.

(3) The disciplinary authority shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own findings on such charge, if the evidence on record is sufficient for the purpose.

(4) If the disciplinary authority having regard to its findings on all or any of the articles of charge is of the opinion that any of the penalties specified in clauses (i) and (iv) of sub-rule (1), and clauses (i) and (ii) of sub-rule (2), of rule 6 should be imposed on the railway servant, it shall, notwithstanding anything contained in rule 11, make an order imposing such penalty:

Provided that in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the disciplinary authority to the Commission for its advice and such advice shall be taken into consideration before making any order imposing any penalty on the railway servant.

(5) (i) If the disciplinary authority, having regard to its findings on all or any of the articles of charge, is of the opinion that any of the penalties specified in clauses (v) to (ix) of sub-rule (1) of rule 6 should be imposed on the railway servant, it shall—

(a) furnish to the railway servant a copy of the report of the inquiry held by it and its findings on each article of charge, or, where the inquiry has been held by an inquiring authority, appointed by it, a copy of the report of such authority and a statement of its findings on each article of charge together with brief reasons for its disagreement, if any, with the findings of the inquiring authority;

(b) give the railway servant a notice stating the penalty proposed to be imposed on him and call upon him to submit within a specified time, ordinarily not exceeding fifteen days from the date of the receipt of the notice subject to a minimum of seven days, such representation as he may wish to make on the proposed penalty on the basis of the evidence adduced during the inquiry held under rule 9.

(ii) (a) In every case in which it is necessary to consult the Commission, the record of the inquiry together with a copy of the notice given under clause (i) and the representation made in pursuance of such notice, if any, shall be forwarded by the disciplinary authority to the Commission for its advice.

(b) The disciplinary authority shall, after considering the representation, if any, made by the railway servant, and the advice given by the Commission, determine what penalty, if any, should be imposed on the railway servant and make such order as it may deem fit.

(iii) Where it is not necessary to consult the Commission, the disciplinary authority shall consider the representation, if any, made by the railway servant in pursuance of the notice given to him under clause (i) and determine what penalty, if any, should be imposed on him and make such order as it may deem fit.

11. **Procedure for imposing minor penalties.**—(1) Subject to the provisions of sub-rule (4) of rule 10, no order imposing on a railway servant any of the penalties specified in clauses (i) to (iv) of sub-rule (1) and clauses (i) and (ii) of sub-rule (2), of rule 6 shall be made except after—

(a) informing the railway servant in writing of the proposal to take action against him and the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal;

(b) holding an inquiry in the manner laid down in sub-rules (3) to (19) of rule 9, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;

(c) taking the representation, if any, submitted by the railway servant under clause (a) and the record of inquiry, if any, held under clause (b) into consideration;

(d) recording a finding on each imputation of misconduct or misbehaviour; and

(e) consulting the Commission where such consultation is necessary.

(2) Notwithstanding anything contained in clause (b) of sub-rule (1), if in a case it is proposed, after considering the representation, if any, made by the railway servant under clause (a) of that sub-rule to withhold increments of pay and such withholding of increments is likely to affect adversely the amount of pension payable to the railway servant or to withhold increments of pay for a period exceeding three years or to withhold increments of pay with cumulative effect for any period, an inquiry shall be held in the manner laid down in sub-rules (3) to (19) of rule 9, before making any order imposing on the railway servant any such penalty.

(3) Notwithstanding anything contained in sub-rule (1), in the matter of imposition of the penalty of fine, it shall be open to the disciplinary authority to obtain the explanation of the railway servant concerned on the spot and reduce the charge and his defence to writing immediately and inform the railway servant concerned of the imposition of the fine.

(4) The record of the proceedings in cases specified in sub-rules (1), and (2), shall include—

(i) a copy of the intimation to the railway servant of the proposal to take action against him;

(ii) a copy of the statement of imputations of misconduct or misbehaviour delivered to him.

- (iii) his representation, if any;
- (iv) the evidence produced during the inquiry, if any;
- (v) the advice of the Commission, if any;
- (vi) the findings on each imputation of misconduct or misbehaviour; and
- (vii) the orders on the case together with the reasons therefor.

12. Communication of orders.—Orders made by the disciplinary authority shall be communicated to the railway servant who shall also be supplied with a copy of the report of the inquiry, if any, held by the disciplinary authority and a copy of its findings on each article of charge, or, where the disciplinary authority is not the inquiring authority, a copy of the report of the inquiring authority and a statement of the findings of the disciplinary authority together with brief reasons for its disagreement, if any, with the findings of the inquiring authority (unless they have already been supplied to him) and also a copy of the advice, if any, given by the Commission and, where the disciplinary authority has not accepted the advice of the Commission, a brief statement of the reasons for such non-acceptance.

13. Common Proceedings.—(1) Where two or more railway servants are concerned in any case, the President or any other authority competent to impose the penalty of dismissal from service on all such railway servants may make an order directing that disciplinary action against all of them may be taken in a common proceeding.

NOTE.—If the authorities competent to impose the penalty of dismissal on such railway servants are different, an order for taking disciplinary action in a common proceeding may be made by the highest of such authorities with the consent of the others.

(2) Any such order shall specify—

- (i) the authority which may function as the disciplinary authority for the purpose of such common proceeding;
- (ii) the penalties specified in rule 6 which such disciplinary authority shall be competent to impose; provided that such authority shall not impose the penalties specified in clauses (vii) to (ix) of that rule if that authority is subordinate to the Appointing Authority;
- (iii) whether the procedure laid down in rule 9 and rule 10 or rule 11 shall be followed in the proceeding.

14. Special procedure in certain cases.—Notwithstanding anything contained in rules 9 to 13—

- (i) where any penalty is imposed on a railway servant on the ground of conduct which has led to his conviction on a criminal charge, or
- (ii) where the disciplinary authority is satisfied, for reasons to be recorded by it in writing, that it is not reasonably practicable to hold an inquiry in the manner provided in these rules; or
- (iii) where the President is satisfied that in the interest of the security of the State, it is not expedient to hold an inquiry in the manner provided in these rules;

the disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit:

Provided that the Commission shall be consulted, where such consultation is necessary before any orders are made in any case under this rule.

15. Provisions regarding railway servants lent to State Governments etc.—(1) Where the services of a railway servant are lent to any other Ministry or Department of the Central Government or to a State Government or an authority subordinate thereto or to a local or other authority (hereinafter in this rule referred to as "the borrowing authority"), the borrowing authority shall have the powers of the authority competent to place the railway servant under suspension for the purpose of placing him under suspension and of the disciplinary authority for the purpose of conducting disciplinary proceeding against him;

Provided that the borrowing authority shall forthwith inform the authority which lent the services of the railway servant (hereinafter in this rule referred to as "the lending authority") of the circumstances leading to the order of his suspension or the commencement of the disciplinary proceeding, as the case may be.

(2) In the light of the findings in the disciplinary proceeding conducted against the railway servant—

- (i) if the borrowing authority is of the opinion that any of the penalties specified in clauses (i) to (iv) of sub-rule (1) and clauses (i) and (ii) of sub-rule (2), of rule 6 should be imposed on the railway servant, it may, after consultation with the lending authority, make such orders on the case as it deems necessary:

Provided that in the event of a difference of opinion between the borrowing authority and the lending authority, the services of the railway servant shall be replaced at the disposal of the lending authority;

- (ii) if the borrowing authority is of the opinion that any of the penalties specified in clauses (v) to (ix) of sub-rule (1) of rule 6 should be imposed on the railway servant, it shall replace his services at the disposal of the lending authority and transmit to it the proceedings of the inquiry and thereupon the lending authority may, if it is the disciplinary authority, pass such orders thereon as it may deem necessary, or, if it is not the disciplinary authority, submit the case to the disciplinary authority which shall pass such orders on the case as it may deem necessary :

Provided that before passing such order the disciplinary authority shall comply with the provisions of sub-rules (4) and (5) of rule 10.

Explanation.—The disciplinary authority may make an order under this clause on the record of the inquiry transmitted to it by the borrowing authority, or after holding such further inquiry as it may deem necessary, as far as may be, in accordance with rule 9.

16. Provisions regarding officers borrowed from Central or State Governments etc.—

(1) Where an order of suspension is made or a disciplinary proceeding is conducted against a railway servant whose services have been borrowed from any other Ministry or Department of the Central Government, or a State Government or an authority subordinate thereto or a local or other authority, the authority lending his services (hereinafter in this rule referred to as "the lending authority") shall forthwith be informed of the circumstances leading to the order of his suspension or of the commencement of the disciplinary proceeding against him, as the case may be.

(2) In the light of the findings in the disciplinary proceeding conducted against the railway servant—

- (i) if the disciplinary authority is of the opinion that any of the penalties specified in clauses (i) to (iv) of sub-rule (1) and clauses (i) and (ii) of sub-rule (2), of rule 6 should be imposed on him, it may, subject to the provisions of sub-rule (4) of rule 10 and except in regard to a Government servant serving in the Intelligence Bureau of the Ministry of Home Affairs upto the rank of an Assistant Central Intelligence Officer, after consultation with the lending authority, pass such orders on the case as it may deem necessary :

Provided that in the event of a difference of opinion between the borrowing authority and the lending authority the services of the railway servant shall be replaced at the disposal of the lending authority;

- (ii) if the disciplinary authority is of the opinion that any of the penalties specified in clauses (v) to (ix) of sub-rule (1) of rule 6 should be imposed on the railway servant, it shall replace his services at the disposal of the lending authority and transmit to it the proceedings of the inquiry for such action as it may deem necessary.

PART V—*Appeals*

17. Orders against which no appeal lies.—Notwithstanding anything contained in this Part, no appeal shall lie against—

- (i) any order made by the President;
- (ii) any order of an interlocutory nature or of the nature of step-in-aid of the final disposal of a disciplinary proceeding, other than an order of suspension;
- (iii) any order passed by an inquiring authority in the course of an inquiry under rule 9.

18. Orders against which appeal lies.—Subject to the provisions of rule 17, a railway servant may prefer an appeal against all or any of the following orders, namely :—

- (i) an order of suspension made or deemed to have been made under rule 5;
- (ii) an order imposing any of the penalties specified in rule 6 whether made by the disciplinary authority or by any appellate or reviewing authority;
- (iii) an order enhancing any penalty imposed under rule 6;
- (iv) an order which—
 - (a) denies or varies to his disadvantage his pay, allowances, pension, Provident Fund Benefits, service gratuity or other conditions of service as regulated by rules or by agreement; or
 - (b) interprets to his disadvantage the provisions of any such rule or agreement;
- (v) an order—
 - (a) stopping him at the efficiency bar in the time-scale of pay on the ground of his unfitness to cross the bar;
 - (b) reverting him while officiating in a higher Service, grade or post to a lower Service, grade or post, otherwise than as a penalty;
 - (c) reducing or withholding the pension or denying the maximum pension admissible to him under the rules, if he is a pensionable railway servant;
 - (d) reducing or withholding the Government contribution to Provident Fund and Special Contribution to Provident Fund or Gratuity admissible to him under the State Railway Provident Fund Rules and Gratuity Rules, if he is a non-pensionable railway servant;
 - (e) determining the subsistence and other allowances to be paid to him for the period of suspension or for the period during which he is deemed to be under suspension or for any portion thereof;
 - (f) determining his pay and allowances—
 - (i) for the period of suspension, or
 - (ii) for the period from the date of his dismissal, removal or compulsory retirement from service to the date of his reinstatement, or
 - (g) determining whether or not the period from the date of his suspension or from the date of his dismissal, removal or compulsory retirement to the date of his reinstatement shall be treated as a period spent on duty for any purpose.

Explanation.—In this rule—

- (i) the expression 'railway servant' includes a person who has ceased to be in railway service;
- (ii) the expression 'pension' includes additional pension, gratuity and any other retirement benefit.

19. **Appellate Authorities.**—(1) A railway servant, including a person who has ceased to be in railway service, may prefer an appeal against all or any of the orders specified in rule 18 to the authority specified in this behalf either in the Schedules or, where no such authority is specified,—

- (i) where a penalty is imposed by a reviewing authority under rule 25, to the authority to which it is immediately subordinate;
 - (ii) where a penalty is enhanced, either in appeal or on review, to the authority to which the authority making the order is immediately subordinate;
 - (iii) in the case of an appeal against an order specified in clause (iv) of rule 18, relating to a rule, to the authority which appointed the appellant or the authority which made the rule to which the order under appeal relates, whichever of them may be the higher authority, and in the case of an appeal relating to an agreement, to the authority which appointed the appellant;
 - (iv) in the case of an appeal against an order specified in clause (v) of rule 18—
 - (a) in respect of a railway servant on whom the penalty of dismissal from service can be imposed only by the President, to the President; and
 - (b) in respect of any other railway servant, to the authority to which the authority making the order is immediately subordinate.
- (2) Notwithstanding anything contained in sub-rule (1),
- (i) an appeal against an order in a common proceeding held under rule 13 shall lie to the authority to which the authority functioning as the disciplinary authority for the purpose of that proceeding is immediately subordinate;
 - (ii) where the person who made the order appealed against becomes, by virtue of his subsequent appointment or otherwise, the appellate authority in respect of such order, an appeal against such order shall lie to the authority to which such person is immediately subordinate:

Provided that in a case where the appellate authority is the Railway Board, the appeal shall be dealt with by any Member of the Railway Board who has not made the order appealed against.

(3) A railway servant may prefer an appeal against an order imposing any of the penalties specified in rule 6 to the President, where no such appeal lies to him under sub-rule (1) or sub-rule (2), if such penalty is imposed by any authority other than the President, on such railway servant in respect of his activities connected with his work as an office-bearer of an association, federation or union participating in the Joint Consultation and Compulsory Arbitration Scheme.

20. **Period of limitation for appeals.**—No. appeal preferred under this Part shall be entertained unless such appeal is preferred within a period of forty-five days from the date on which a copy of the order appealed against is delivered to the appellant:

Provided that the appellate authority may entertain the appeal after the expiry of the said period, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

21. **Form and contents and submission of appeal.**—(1) Every person preferring an appeal shall do so separately and in his own name. An appeal forwarded through or countersigned by a legal practitioner or an assisting railway servant or a Railway Trade Union Official shall not be entertained but shall be returned with the direction to submit it under the signature of the appellant only.

(2) The appeal shall be presented to the authority to whom the appeal lies, a copy being forwarded by the appellant to the authority which made the order appealed against. It shall contain all material statements and arguments on which the appellant relies, shall not contain any disrespectful or improper language, and shall be complete in itself.

(3) The authority which made the order appealed against shall on receipt of a copy of the appeal, forward the same with its comments thereon together with the relevant records to the appellate authority without any avoidable delay and without waiting for any direction from the appellate authority.

22. Consideration of appeal.—(1) In the case of an appeal against an order of suspension, the appellate authority shall consider whether in the light of the provisions of rule 5 and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly.

(2) In the case of an appeal against an order imposing any of the penalties specified in rule 6 or enhancing any penalty imposed under the said rule, the appellate authority shall consider—

- (a) whether the procedure laid down in these rules has been complied with, and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;
- (b) whether the findings of the disciplinary authority are warranted by the evidence on the record; and
- (c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe;

and pass orders—

- (i) confirming, enhancing, reducing or setting aside the penalty; or
- (ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such directions as it may deem fit in the circumstances of the case;

Provided that—

- (i) the Commission shall be consulted in all cases where such consultation is necessary;
- (ii) if the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in clauses (v) to (ix) of sub-rule (1) of rule 6 and an inquiry under rule 9 has not already been held in the case, the appellate authority shall, subject to the provisions of rule 14, itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of rule 9 and thereafter, on a consideration of the proceedings of such inquiry and after giving the appellant a reasonable opportunity, as far as may be in accordance with the provisions of sub-rule (5) of rule 10, of making a representation against the penalty proposed on the basis of the evidence adduced during such inquiry, make such orders as it may deem fit;
- (iii) if the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in clauses (v) to (ix) of sub-rule (1) of rule 6 and an inquiry under rule 9 has already been held in the case, the appellate authority shall, after giving the appellant a reasonable opportunity, as far as may be in accordance with the provisions of sub-rule (5) of rule 10, of making a representation against the penalty proposed on the basis of the evidence adduced during the inquiry, make such orders as it may deem fit; and
- (iv) no order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity, as far as may be in accordance with the provisions of rule 11, of making a representation against such enhanced penalty.

(3) In an appeal against any other order specified in rule 18, the appellate authority shall consider all the circumstances of the case and make such orders as it may deem just and equitable.

23. Implementation of orders in appeal.—The authority which made the order appealed against shall give effect to the orders passed by the appellate authority.

24. Special provisions for non-gazetted staff.—(1) Where the penalty of dismissal, removal, compulsory retirement, reduction or withholding of increment has been imposed, the appellate authority may, at its discretion and if it considers it necessary, give the non-gazetted railway servant a personal hearing before disposing of the appeal. At this personal hearing, the railway servant may be accompanied, if he so chooses, by another

railway servant employed on the same railway administration, office of the Railway Board, its attached office or subordinate office, as the case may be, in which the appellant was or is working or an official (who is not a legal practitioner) of a Railway Trade Union recognised by the Railway Administration on which the appellant was or is employed.

(2) A class III railway servant including a skilled artisan, who has been dismissed, removed or compulsorily retired from service, may after his appeal to the appropriate appellate authority has been disposed of, and within two months thereafter, apply to the General Manager for a revision of the penalty imposed on him. In this application, he may, if he so chooses, request the General Manager to refer the case to the Railway Rates Tribunal for advice before he disposes it. On receipt of such a request, the General Manager shall refer the case to the Chairman, Railway Rates Tribunal, for advice sending him all relevant papers :

Provided that the procedure mentioned in this sub-rule shall not apply in cases where the General Manager or the Railway Board is the appellate authority.

PART VI—Review

25. **Review.**—(1) Notwithstanding anything contained in these rules.—

- (i) the President, or
- (ii) the Railway Board, or
- (iii) the General Manager of a Zonal Railway or an authority of that status in any other Railway Unit or Administration, in the case of a Railway servant serving under his or its control, or
- (iv) the appellate authority not below the rank of a Deputy Head of Department or a Divisional Superintendent in cases where no appeal has been preferred, or
- (v) any other authority not below the rank of a Deputy Head of Department or a Divisional Superintendent, in the case of a Railway servant serving under its control;

may at any time, either on his or its own motion or otherwise call for the records of any inquiry and review any order made under these rules or under the rules repealed by rule 29 from which an appeal is allowed but from which no appeal has been preferred or from which no appeal is allowed, and may, after consultation with the Commission where such consultation is necessary—

- (a) confirm, modify or set aside the order; or
- (b) confirm, reduce, enhance or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed; or
- (c) remit the case to the authority which made the order or to any other authority directing such authority to make such further inquiry as it may consider proper in the circumstances of the case; or
- (d) pass such other orders as it may deem fit:

Provided that no order imposing or enhancing any penalty shall be made by any reviewing authority unless the railway servant concerned has been given a reasonable opportunity of making a representation against the penalty proposed; and where it is proposed to impose any of the penalties specified in clauses (v) to (ix) of sub-rule (1) of rule 6 or to enhance the penalty imposed by the order sought to be reviewed to any of the penalties specified in those clauses, no such penalty shall be imposed except after an inquiry in the manner laid down in rule 9, subject to the provisions of rule 14, if no such inquiry has already been held, and after giving a reasonable opportunity to the railway servant concerned of showing cause against the penalty proposed on the evidence adduced during the inquiry, and except after consultation with the Commission where such consultation is necessary:

Provided further that no power of review shall be exercised under this rule :

- (i) by the appellate or reviewing authority where it has already considered the appeal or the case and passed orders thereon; and
- (ii) by a reviewing authority unless it is higher than the appellate authority.

(NOTE.—This proviso shall not apply in cases of review by the President):

Provided further that no action under this rule shall be initiated by (a) an appellate authority other than the President or (b) the reviewing authorities mentioned in item (v) of sub-rule (1)—

- (i) more than six months after the date of the order to be reviewed in cases where it is proposed to impose or enhance a penalty, or modify the order to the detriment of the railway servant; or
- (ii) more than one year after the date of the order to be reviewed in cases where it is proposed to reduce or cancel the penalty imposed or modify the order in favour of the railway servant.

NOTE 1.—The time limits for review of cases mentioned in this proviso shall be reckoned from the date of issue of the orders proposed to be reviewed. In cases where original orders have been upheld by the appellate authority, the time limit shall be reckoned from the date of issue of the appellate orders.

NOTE 2.—When review is undertaken by the Railway Board or the General Manager of a Zonal Railway or an authority of the status of a General Manager in any other Railway Unit or Administration, when they are higher than the appellate authority, and by the President, even when he is the appellate authority, this can be done without restriction of any time limit.

(2) No proceeding for review shall be commenced until after:—

- (i) the expiry of the period of limitation for an appeal, or
- (ii) the disposal of the appeal, where any such appeal has been preferred;

Provided that the provisions of this sub-rule shall not apply to the review of punishments in case of railway accidents.

PART VII—Miscellaneous

26. **Service of orders, notices etc.**—Every order, notice and other process made or issued under these rules shall be served in person on the railway servant concerned or communicated to him by registered post.

27. **Power to relax time limit and to condone delay.**—Save as otherwise expressly provided in these rules, the authority competent under these rules to make any order may, for good and sufficient reasons or if sufficient cause is shown, extend the time specified in these rules for anything required to be done under these rules or condone any delay.

28. **Supply of copy of Commission's advice.**—Whenever the Commission is consulted as provided in these rules, a copy of the advice by the Commission and, where such advice has not been accepted, also a brief statement of the reasons for such non-acceptance, shall be furnished to the railway servant concerned along with a copy of the order passed in the case, by the authority making the order.

29. **Repeal and saving.**—(1) The Discipline and Appeal Rules for Railway servants, other than those employed in the Railway Protection Force, in force with effect from the 1st August, 1961 and any orders issued thereunder in so far as they are inconsistent with these rules are hereby repealed:

Provided that—

- (a) such repeal shall not affect the previous operation of the said rules, or any order made, or anything done, or any action taken, thereunder;
- (b) any proceedings under the said rules, pending at the commencement of these rules shall be continued and disposed of, as far as may be, in accordance with the provisions of these rules as if such proceedings were proceedings under these rules.

(2) Nothing in these rules shall be construed as depriving any person to whom these rules apply, of any right of appeal which had accrued to him under the rules or orders in force before the commencement of these rules.

(3) An appeal pending at the commencement of these rules against an order made before such commencement shall be considered and orders thereon shall be made, in accordance with these rules, as if such orders were made and the appeals were preferred under these rules.

(4) As from the commencement of these rules any appeal or application for review against any orders made before such commencement shall be preferred or made under these rules, as if such orders were made under these rules:

Provided that nothing in these rules shall be construed as reducing any period of limitation for any appeal or review provided by any rule in force before the commencement of these rules.

30. **Removal of doubts.**—If any doubt arises as to the interpretation of any of the provisions of these rules, the matter shall be referred to the President through the Railway Board, and the President shall decide the same.

31. **Right to submit petitions to the President.**—Nothing in these rules shall operate to deprive a railway servant from exercising his right of submitting a petition to the President in accordance with the instructions contained in Appendix X to the Indian Railway Establishment Code, Volume I.

SCHEDULE I

[See rule 4 and sub-rule (2) of rule 7]

Item No.	Class of railway servants	Authority empowered to place a railway servant under suspension or to impose penalties	Nature of penalties which the authority in column (3) is empowered to impose on railway servants mentioned in corresponding entries in column (2) and powers of that authority to place them under suspension	Appellate Authority
(1)	(2)	(3)	(4)	(5)
<i>Railway Board's Office</i>				
1	All classes of non-gazetted railway servants.	Secretary, Railway Board	All penalties specified in rule 6 and suspension.	Railway Board.
2	All classes of non-gazetted railway servants.	Deputy Secretary, Railway Board	Penalties specified in clauses (i) to (iv) of sub-rule (1) and clauses (i) and (ii) of sub-rule (2) of rule 6 and suspension.	Secretary, Railway Board.
3	Class IV staff	Under Secretary (General), Railway Board.	Penalties specified in clauses (i) to (iv) of sub-rule (1) and clauses (i) and (ii) of sub-rule (2) of rule 6 and suspension.	Deputy Secretary, Railway Board
<i>Research Design and Standards Organisation.</i>				
1	All classes of non-gazetted railway servants.	Director General	All penalties specified in rule 6 and suspension.	Railway Board.
2	All classes of non-gazetted railway servants.	Deputy Director General	All penalties specified in rule 6 and suspension.	Director General.

(1)	(2)	(3)	(4)	(5)
3 All classes of non-gazetted railway servants.	Directors and Additional Directors	All penalties specified in rule 6 and suspension.	Director General.	
4 All classes of non-gazetted railway servants.	Joint Director (Traffic Research)	All penalties specified in rule 6 and suspension.	Director General.	
5 All classes of non-gazetted railway servants.	Joint Directors other than Joint Director (Traffic Research)	All penalties specified in rule 6 and suspension.	Director or Additional Director, as the case may be.	
6 All classes of non-gazetted railway servants except in grade Rs. 335—485 (AS) and above.	Deputy Director Finance-cum-Pay Accounts Officer and Deputy Director Establishment.	Penalties specified in clauses (i) to (vi) of sub-rule (1) and clauses (i) and (ii) of sub-rule (2) of rule 6 and suspension.	Deputy Director General.	
7 All classes of non-gazetted railway servants except in grade Rs. 335—485 (AS) and above.	Deputy Directors other than (a) Deputy Director Finance-cum-Pay Accounts Officer and (b) Deputy Director Establishment.	Penalties specified in clauses (i) to (vi) of sub-rule (1) and clauses (i) and (ii) of sub-rule (2) of rule 6 and suspension.	Joint Director.	
8 Class IV staff	Secretary to Director General	Penalties specified in clauses (i) to (iv) of sub-rule (1) and clauses (i) and (ii) of sub-rule (2) of rule 6 and suspension.	Deputy Director General.	
9 All classes of non-gazetted railway servants except in grade Rs. 335—485 (AS) and above.	(i) Assistant Directors Research (Civil) Research Directorate. (ii) Assistant Directors (Mechanical), Research Directorate. (iii) Assistant Directors Research (Signal & Telecommunication), Research Directorate. (iv) Dynamometer Car Officers. (v) Oscillograph Car Officers. (vi) Sectional Officers (Controlling field investigation units and laboratories).	Penalties specified in clauses (i) to (vi) of sub-rule (1) and clauses (i) & (ii) of sub-rule (2) of rule 6 and suspension, if the authorities in column (3) are in Senior Scale.	Next higher authority. (Deputy Director or Joint Director or Deputy Director General, as the case may be).	
10 (a) Class IV staff and artisans. (b) Class III staff in scales upto Rs. 205—280 (AS).	(i) Assistant Directors Research (Civil), Research Directorate. (ii) Assistant Directors Research (Mechanical), Research Directorate.	Penalties specified in clauses (i) to (vi) of sub-rule (1) and (i) and (ii) of sub-rule (2) of rule 6 and suspension on staff mentioned in item 10(a) in column (2), and penalties speci-	Next higher authority (Deputy Director or Joint Director or Director Deputy General, as the case may be).	

	(iii) Assistant Directors Research (Signal & Telecommunication), Research Directorate.	ified in clauses (i) to (v) of sub-rule (i) and clauses (i) and (ii) of sub-rule (2) and suspension on staff mentioned in item 10(b) in column (2), if the authorities mentioned in column (3) are in Junior Scale or in Class II.	
	(iv) Dynameter Car Officers.		
	(v) Oscillograph Car Officers.		
	(vi) Sectional Officers (Controlling field investigation units and laboratories).		
11 (a) Class IV staff and artisans	Assistant Directors other than those mentioned against item 10, Assistant Engineer and Assistant Controller of Stores.	Penalties specified in clauses (i) to (vi) of sub-rule (1) and clauses (i) and (ii) of sub-rule (2) of rule 6 and suspension on staff mentioned in item 11(a) in column (2), and penalties specified in clauses (i) to (v) of sub-rule (1) and clauses (i) and (ii) of sub-rule (2) of rule 6 and suspension on staff mentioned in item 11(b) in column (2).	Next higher authority, (Deputy Director or Joint Director or Deputy Director General, as the case may be).
(b) Class III Staff in scales upto Rs. 205—280 (AS).			

Indian Railways School of Signal Engineering and Telecommunications Secunderabad.

1 All classes of non-gazetted railway servants.	Principal	All penalties specified in rule 6 and suspension.	Railway Board.
2 All non-gazetted staff referred to in column (4).	Senior Scale Officers	(a) Penalty specified in clause (i) of sub-rule (1) of rule 6.—All non-gazetted staff except in grade Rs. 450—575 (AS) and above. (b) Penalties specified in clauses (ii), (iii), (iv) of sub-rule (1) and clause (ii) of sub-rule (2) of rule 6.—All non-gazetted staff except in grade Rs. 370—475/335—485/350—475 (AS) and above. (c) Penalties specified in clauses (v) and (vi) of sub-rule (1) of rule 6.—All non-gazetted staff except in grade Rs. 335—425 (AS) and above. (d) Penalty specified in clause (i) of sub-rule (2) of rule 6.— For officers with ten years' service and less as gazetted officers—All non-gazetted staff except in grade Rs. 370—475/335—485/350—475 (AS) and Above.	Principal.

(1)	(2)	(3)	(4)	(5)
			<p>For Officers with more than ten years' service as gazetted officers— All non-gazetted staff except in grade Rs. 450—575 (AS). (e) Penalties specified in clauses (vii), (viii) and (ix) of sub-rule (1) of rule 6.—All non-gazetted staff for whom the Senior Scale Officers are the appointing or higher authorities. (f) Suspension.—All non-gazetted staff in scales upto Rs. 335—425/270—435 (AS).</p>	
3	All non-gazetted staff referred in column (4).	Officer in Junior Scale or in Class II.	<p>(a) Penalties specified in clause (i) of sub-rule (1) and clause (i) of sub-rule (2) of rule 6.—All non-gazetted staff in grades upto Rs. 250—380/270—380 (AS). (b) Penalties specified in clauses (ii), (iii), (iv) and (v) of sub-rule (1) and clause (ii) of sub-rule (2) of rule 6.—All non-gazetted staff in scale of pay rising upto Rs. 240/- (AS). (c) Penalty specified in clause (vi) of sub-rule (1) of rule 6.—Clause IV staff. (d) Penalties specified in clauses (vii), (viii) and (ix) of sub-rule (1) of rule 6.—Class IV staff for whom Officers in Junior Scale or in Class II are the Appointing Authorities. (e) Suspension.—All non-gazetted staff drawing Rs. 280/- and below.</p>	Senior Scale Officer.
<p><i>Railway Staff College, Baroda.</i></p>				
1	All classes of non-gazetted railway servants.	Principal	All penalties specified in rule 6 and suspension,	Railway Board.

- 2 All non-gazetted railway servants referred to in column (4). Establishment Officer [Instructor (Sr. scale) Establishment and General subjects.]
- (a) Penalties specified in clauses (i) and (iii) of sub-rule (1) and clause (i) of sub-rule (2) of rule 6 and suspension.—All non-gazetted staff except in scale of Rs. 450—575 (AS).
 - (b) penalty specified in clause (ii) of sub-rule (2) of rule 6.—All non-gazetted staff except in scales above Rs. 150—240 (AS).
 - (c) Penalties specified in clauses (ii) and (iv) of sub-rule (1) of rule 6.—All non-gazetted staff except in scales Rs. 370—475/335—485/350—475 and above.
 - (d) Penalties specified in clauses (v) and (vi) of sub-rule (1) of rule 6.—All non-gazetted staff except in scales Rs. 335—425/270—435 (AS) and above.
 - (e) Penalties specified in clauses (vii), (viii) and (ix) of sub-rule (1) of rule 6.—All Class IV staff and Artisans for whom the Establishment Officer is the Appointing Authority.

Advanced Permanent Way Training School, Poona.

- 1 All classes of non gazetted railway servants. Principal All penalties specified in rule 6 and suspension. Railway Board.
- 2 All non-gazetted railway servants referred to in column (4). Vice Principal (Senior Scale)
- (a) Penalties specified in clauses (i) and (iii) of sub-rule (1) and clause (i) of sub-rule (2) of rule 6 and suspension.—All non-gazetted staff except in scale of Rs. 450—575 (AS).
 - (b) Penalty specified in clause (ii) of sub-rule (2) of rule 6.—All non-gazetted staff except in scales above Rs. 150—240 (AS).

(1)	(2)	(3)	(4)	(5)
			<p>(c) Penalties specified in clauses (ii) and (iv) of sub-rule (1) of rule 6.—All non-gazetted staff except in scales Rs. 370—475/335—485/350—475 and above.</p> <p>(d) Penalties specified in clauses (v) and (vi) of sub-rule (1) of rule 6.—All non-gazetted staff except in scales Rs. 335—425/270—425 and above.</p> <p>(e) Penalties specified in clauses (vii), (viii) and (ix) of sub-rule (1) of rule 6.—All Class IV staff and artisans for whom Vice-Principal is the Appointing Authority.</p>	
	<i>Railway Service Commissions:</i>			
	All classes of non-gazetted railway servants.	Chairman	All penalties specified in rule 6 and suspension.	Railway Board.
	<i>Railway Rates Tribunal:</i>			
	All classes of non-gazetted railway servants.	Chairman	All penalties specified in rule 6 and suspension.	Railway Board.
	<i>Railway Liaison Office:</i>			
	All classes of non-gazetted railway servants.	Railway Liaison Officer	All penalties specified in rule 6 and suspension.	Railway Board.
	<i>All other Offices:</i>			
	(Not shown above.)			
	All classes of non-gazetted railway servants.	Head of Office	All penalties specified in rule 6 and suspension.	Railway Board.

Note (1).—The Railway Board may impose any of the penalties specified in rule 6 on all non-gazetted railway servants employed in the offices mentioned in this Schedule and place them under suspension.

Note (2).—The penalty of compulsory retirement or removal or dismissal from service shall be imposed only by the Appointing Authority or a higher Authority.

SCHEDULE II

[See rule 4 and sub-rule (2) of rule 7]

Schedule of Disciplinary Powers of different grades of Railway Officers in respect of non-gazetted staff of Zonal Railways, C.L.W., D.L.W., I.C.F. D.B.K. Rly. Projects and Railway Electrification.

Senior Supervisors in grades Rs. 250—380 (AS) and above	Asstt. Officers (Jr. Scale and Class II Officers)	Sr. Scale Officers and Asstt. Officers (Jr. Scale and Class II Officers) holding Independent charge	Jr. Administrative Officers/ Inter Administrative Officers	Head of Department other than General Manager	General Manager	Railway Board
1	2	3	4	5	6	7
(1) Censure						
Class IV, Artisans and Cl. III staff in scales of pay rising to Rs. 180/- (AS).	Class IV, Artisans and Cl. III staff in grades upto Rs. 250—380/270—380.	Class IV, Artisans and Class III staff except in grade Rs. 450—575.	Class IV Artisans & Class III staff.	Class IV Artisans & Class III staff.	Class IV Artisans & Class III staff.	Class IV Artisans & Class III staff.
(2) Withholding of privileges of passes and/or P.T. Os.						
Class IV, Artisans and Cl. III staff in scales of pay rising to Rs. 180/- (AS).	Cl. IV, Artisans and Class III staff in grades upto Rs. 250—380/270—380.	For Officers with 10 years' service & less as gazetted Officer—Cl. IV, Artisans & Class III staff except in grade Rs. 370—475/335—485/350—475 & above. For Officers with more than 10 years' service as gazetted Officers—Class IV, Artisans and Class III staff except in grade Rs. 450—575.	Class IV, Artisans & Class III staff.	Class IV, Artisans & Class III staff.	Class IV, Artisans & Class III staff.	Class IV, Artisans & Class III staff.
(3) FINES (Upto a maximum limit permissible under Payment of Wages Act)						
Class IV, Artisans and Class III staff in scales of pay rising upto Rs. 180/- (AS).	Class IV Artisans and Cl. III staff in scales of pay rising upto Rs. 240 (AS).	Class IV, Artisans and Cl. III staff except in grades Rs. 370—475/335—485/350—475 and above.	Class IV, Artisans & Class III Staff.	Class IV, Artisans & Class III staff.	Class IV, Artisans & Class III staff.	Class IV, Artisans & Class III staff.

1	2	3	4	5	6	7
(4) <i>Withholding of promotions and withholding of increments</i>						
Nil	Class IV, Artisans and Class III staff in scales of pay rising up to Rs. 240 (AS).	Class IV, Artisans and Cl. III staff except in grades Rs. 370—475/335—485/350—475 and above.	Class IV, Artisans & Class III staff	Class IV, Artisans & Class III staff	Class IV, Artisans & Class III staff	Class IV, Artisans & Class III staff

(5) *Recovery from pay of pecuniary loss caused to government by negligence or breach of order*

Nil	Class IV, Artisans and Cl. III staff in scales of pay rising up to Rs. 240 (AS).	Class IV, Artisans and Cl. III staff except in grades Rs. 370—475/335—485/350—475 and above.	Class IV, Artisans & Class III staff	Class IV, Artisans & Class III staff	Class IV, Artisans & Class III staff	Class IV, Artisans & Class III staff
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(6)(a) *Reduction to a lower post or lower Time-Scale*

Nil	Class IV staff and Artisans.	Class IV, Artisans and Cl. III staff except in grades Rs. 335—425 and above.	Class IV, Artisans & Class III staff	Class IV, Artisans & Class III staff	Class IV, Artisans & Class III staff	Class IV, Artisans & Class III staff
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(b) *Reduction to a lower Stage in a Time Scale.*

Nil	Class IV staff, Artisans & Cl. III staff in scales of pay rising up to Rs. 240 (AS).	Class IV, Artisans and Cl. III staff except in grades Rs. 335—425 and above.	Class IV, Artisans & Class III staff	Class IV, Artisans & Class III staff	Class IV, Artisans & Class III staff	Class IV, Artisans & Class III staff
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(7) *Removal from Service]*

(8) *Compulsory Retirement*

(9) *Dismissal from Service*

.....Appointing Authority or any other higher authority.....

(10) *Suspension (This is not a penalty)*

Class IV, Artisans and and Class III staff in scales of pay rising up to Rs. 180/- (AS) (subject to report to Distt. Officer or Asstt. Officer inchar- ge within 24 hours in the case of Class III staff).	Class IV, Artisans & Class III staff draw- ing Rs. 280 and below.	Class IV, Artisans and Class III staff up to scales Rs. 335—425/270—435.	Class IV, Artisans and Class III staff	Class IV, Artisans & Class III staff	Class IV, Artisans & Class III staff	Class IV, Artisans & Class III staff
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NOTE 1.—The appellate authorities in the case of authorities mentioned in this Schedule shall be those as shown in the next column, whereas in the case of the authority specified in the last column, the appellate authority shall be the President.

NOTE 2.—The Appointing authority or any higher authority, who is competent to impose the penalties of dismissal, removal or compulsory retirement, may also impose any lower penalty.

SCHEDULE III

[See rule 4 and sub-rule (2) of rule 7]

Item No.	Class of Railway servants	Authority empowered to place a railway servant under suspension or to impose penalties and its nature	Appellate authority
1	Railway Servants Class I.	President.—Full powers	
		<i>Railway Board.</i> —Suspension in the case of President, railway servants appointed on and after 1st April 1937 and the penalty specified in clause (i) of sub-rule (1) in respect of railway servants appointed before 1st April 1937 and the penalties specified in clauses (i) to (vi) of sub-rule (1) of rule 6 in the case of others.	
		<i>General Managers and Director General RDSO.</i> — Suspension and the penalties specified in clauses (i), (iii) and (iv) of sub-rule (1) of rule 6 in the case of Junior Scale Officers appointed on and after 1st April 1937.	
2	Railway Servants Class II.	President.—Full powers	
		<i>Railway Board.</i> —Full powers	President.
		<i>General Managers and Director General RDSO.</i> — Suspension and the penalties specified in clauses (i) to (vi) of sub-rule (1) of rule 6.	
		<i>Chairman, Railway Board.</i> —Suspension and the penalties specified in clauses (i) to (vi) of sub-rule (1) of rule 6 in the case of Class II Officers of Railway Board Secretariat Service.	

[No. ED&A 66RG-9.]

C. S. PARAMESWARAN, Secy. Railway Board.

MINISTRY OF HOME AFFAIRS

New Delhi, the 6th September 1968

S.O. 3182.—Whereas the Central Government is of the opinion that it is necessary and expedient in the public interest to exempt H.R.H. Crown Prince Birendra Bir Bikram Shah Deva of Nepal visiting India in the last week of September, 1968, from the operation of some of the provisions of the Arms Act, 1959 (54 of 1959);

Now, therefore, in the exercise of the powers conferred by clause (a) of section 41 of the Act, the Central Government hereby exempts H.R.H. Crown Prince Birendra Bir Bikram Shah Deva from the operation of the restrictions and directions imposed under the Arms Act and the Rules framed thereunder in regard to—

- (i) import into India of one .32 Calibre Walther Pistol S. No. 225—364 with approximately 100 cartridges,
- (ii) transport, possession and carrying of the articles mentioned above during his stay in India subject to the condition that none of these articles shall be sold to any one in India for consideration or otherwise, and
- (iii) export of these articles out of India.

2. This exemption shall take effect from 25th September, 1968 and shall remain valid for a period of one month.

[No. F.17/10/68-P.IV.]

G. S. KAPOOR, Under Secy.

गृह मंत्रालय

नई दिल्ली, 6 सितम्बर, 1968

एस० नो० 3183.—जबकि केन्द्रीय सरकार का मत है कि नेपाल के राजकुलमान्य युवराज बीरेन्द्र बीर बिक्रम शाह देव को, जो सितम्बर, 1968 के अन्तिम सप्ताह में भारत यात्रा पर पधार रहे हैं, जनहित में शस्त्र अधिनियम, 1959 (1959 का 54) के कुछ उपबन्धों के प्रवर्तन से छूट देना आवश्यक तथा इष्टकर है ;

अतएव अब अधिनियम की धारा 41 के खण्ड (क) द्वारा प्रदत्त शक्तियों के प्रयोग में केन्द्रीय सरकार एतद्द्वारा राजकुलमान्य युवराज बीरेन्द्र बीर बिक्रम शाहदेव को शस्त्र अधिनियम तथा उसके अन्तर्गत बनाए गए नियमों के अधीन प्रतिबन्धों और निर्वेशनों के प्रवर्तन से निम्नांकित के सम्बन्ध में छूट देती है :—

- (i) लगभग 100 कारतूसों सहित एक 32 कैलिबर वाल्वेर पिस्तौल न० सं० 225—364 का भारत में आयात ।
- (ii) भारत में अपने निवास के दौरान उपरोक्त वस्तुओं के वहन, आधिपत्य तथा ले जाना बशर्ते कि इन वस्तुओं में से कोई प्रतिफलार्थ अथवा अन्य किसी प्रयोजन के लिये भारत में किसी को न बेची जाएगी, और
- (iii) इन वस्तुओं का भारत से निर्यात ।

2. यह छूट 25 सितम्बर, 1968 से लागू होगी और एक महीने की अवधि के लिये वैध रहेगी ।

[सं० 17/10/68/पी० 4.]

गौरीशंकर कपूर, अवसर सचिव ।

MINISTRY OF FINANCE

(Department of Expenditure)

New Delhi, the 31st August 1968

S.O. 3184.—In pursuance of clause (3) of article 77 of the Constitution and of all other powers enabling him in this behalf, the President hereby makes the following rules further to amend the Delegation of Financial Powers Rules, 1958, namely :—

1. These rules may be called the Delegation of Financial Powers (Second Amendment) Rules, 1968.

2. In the Delegation of Financial Powers Rules, 1958,

(a) in Schedule I,

(i) under the heading “Y. Ministry of Transport (Transport Wing)”, item 8 and the entries relating thereto shall be deleted,

(ii) under the heading “Z. Ministry of Works and Housing”, (1) for item 2 and the entries relating thereto, the following shall be substituted and be deemed to have been substituted with effect from the 7th day of March, 1968, namely:—

“2. Engineer-in-Chief, Central Public Works Department”.

(2) item 7 and the entries relating thereto shall be deleted;

(b) in the Annexure to Schedule V,

(i) after Note 3, below para 4 in column 4 against item 3 the following shall be inserted, namely :—

“NOTE 4. If a Government servant is called to duty between 9 P.M. and 6 A.M. or is detained in office outside normal working hours and has to return home between 9 P.M. and 6 A.M. when ordinary means of conveyance are not available, actual taxi or other conveyance hire may be reimbursed to him provided he is not in receipt of any remuneration for prolonged detention in office and is not in possession of his own conveyance or is not able to use his conveyance and subject also to the condition that a certificate from the Head of Department in the case of a Gazetted officer and Head of office in the case of non-Gazetted Government servant, is forthcoming to the effect that the officer had to be called/detained after 9 P.M. in the interest of public service.”

(ii) in para (1), of column 4, against item 23 (c) after the words “A Department of the Central Government” the words “and an Administrator”, shall be inserted.

[No. F. 1(8)-B.II(A)/68.]

K. N. SINGH, Deputy Secy.

(Department of Economic Affairs)

New Delhi, the 3rd September 1968

S.O. 3185.—Statement of the Affairs of the Reserve Bank of India, as on the 30th August, 1968

BANKING DEPARTMENT

LIABILITIES	Ra.	ASSETS	Ra.
Capital Paid Up . . .	5,00,00,000	Notes	60,32,48,000
		Rupee Coin	9,46,000
Reserve Fund	80,00,00,000	Small Coin	4,10,000
National Agricultural Credit (Long Term Operations) Fund . . .	143,00,00,000	Bills Purchased and Discounted :—	
		(a) Internal
		(b) External
		(c) Government Treasury Bills	128,94,90,000
National Agricultural Credit (Stabilisation) Fund . . .	33,00,00,000	Balances Held Abroad*	99,31,39,000
National Industrial Credit (Long Term Operations) Fund	55,00,00,000	Investments**	316,52,65,000
		Loans and Advances to :—	
		(i) Central Government
		(ii) State Governments@	18,74,66,000
Deposits—		Loans and Advances to :—	
(a) Government—		(i) Scheduled Commercial Banks†	56,07,10,000
		(ii) State Co-operative Banks††	171,92,78,000
(i) Central Government	99,15,42,000	(iii) Others	3,56,91,000

LIABILITIES		ASSETS	
	Rs.		Rs.
		Loans, Advances and Investments from National Agricultural Credit (Long Term Operations) Fund—	
(ii) State Governments	10,35,91,000	(a) Loans and Advances to :—	
		(i) State Governments	31,68,12,000
		(ii) State Co-operative Banks	15,66,85,000
		(iii) Central Land Mortgage Banks	..
(b) Banks—		(b) Investment in Central Land Mortgage Bank Debentures	8,33,32,000
(i) Scheduled Commercial Banks	150,04,51,000	Loans and Advances from National Agricultural Credit (Stabilisation) Fund—	
(ii) Scheduled State Co-operative Banks	6,65,19,000	Loans and Advances to State Co-operative Banks	5,74,92,000
(iii) Non-Scheduled State Co-operative Banks	91,23,000		
(iv) Other Banks	24,36,000	Loans, Advances and Investments from National Industrial Credit (Long Term Operations) Fund—	
(c) Others	322,25,56,000	(a) Loans and Advances to the Development Bank	6,08,92,000
Bills payable	23,02,97,000	(b) Investment in bonds/debentures issued by the Development Bank	
Other Liabilities	28,87,97,000	Other Assets	34,44,56,000
Rupees	957,53,12,000	Rupees	957,53,12,000

*Includes Cash, Fixed Deposits and Short-term Securities.

**Excluding Investments from the National Agricultural Credit (Long Term Operations) Fund and the National Industrial Credit (Long Term Operations) Fund.

@ Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund, but including temporary over-drafts to State Governments.

†Includes Rs. 47,22,39,000 advanced to scheduled commercial banks against usance bills under Section 17(4)(c) of the Reserve Bank of India Act.

††Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 4th day of September, 1968.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 30th day of August, 1968

ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department . . .	60,32,48,000		Gold Coin and Bullion:—		
Notes in circulation . . .	31,59,83,26,000		(a) Held in India	115,89,25,000	
Total Notes issued		32,20,15,74,000	(b) Held outside India	
			Foreign Securities	206,42,00,000	
			TOTAL		322,31,25,000
			Rupee Coin		84,79,81,000
			Government of India Rupee Securities		2813,04,68,000
			Internal Bills of Exchange and other commercial paper
Total Liabilities		3220,15,74,000	Total Assets		3220,15,74,000

Dated the 4th day of September, 1968.

L. K. JHA,
Governor.
[No. F. 3(3)-BC/68.]

New Delhi, the 7th September 1968

S.O. 3186.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declare that the provisions of section 9 of the said Act shall not apply to the New Bank of India Ltd., New Delhi, in respect of the agricultural lands, measuring 3,622 square yards held by it at Bataala Road, Amritsar, till the 5th September, 1969.

[No. F.15(23)-BC/68.]

V. SWAMINATHAN, Under Secy.

(Department of Economic Affairs)**(Office of the Treasurer of Charitable Endowments for India)****ERRATA***New Delhi, the 27th August 1968*

S.O. 3187.—In the Notification of the Government of India in the Ministry of Finance, Department of Economic Affairs (Office of the Treasurer of Charitable Endowments for India) No. F. 1/1/68-SB-TCE, dated the 15th June, 1968, published as S.O. 2745 in the Gazette of India, Part II, Section 3(ii) dated the 3rd August, 1968, at pages 3653 to 3685—

1. at page 3656—against Serial No. 1 under Maharashtra
 - (i) in Column 2, line 2, for '33' read '433'
 - (ii) in Column 6, line 10, for '4823/4' read '482-3/4'.
2. at pages 3666-3667—above case No. 8, in Column 11, line 15, for '/PSA/' read '/PS8/'.
3. at page 3668—against case No. 17, in Column 4, for '4-192 per cent' read '4-1/2 per cent'.
4. at page 3668—against case Nos. 1 and 2 under Maharashtra in Column 4, the words and figures '3 per cent Loan 1970—75...2,04,100.00' should be read against case No. 1 and the other words and figures below that should be read against case No. 2.
5. at pages 3668-3669—against case No. 2, under Maharashtra, in Column 11.
 - (i) line 5 for '8/2966-T6' read '8/29/66-T.6'.
 - (ii) the word 'Rs' below line 8 should be read above the figures '12,19,200' etc.
6. at page 3668—against case No. 4, under Maharashtra, in Column 2, for the word 'Ghatfield' read 'Chatfield'.
7. at page 3670—against case No. 10, in Column 4, the figure of Rs '7,000.00' should be read against the words '3 per cent Conversion Loan 1946'.
8. at pages 3672-73—against case No. 19, in Column 10, the mark '.' below figure '24.62(h)' should be omitted.
9. at page 3674—against case No. 27, in Column 4 for '41/2 per cent' read '4-1/2 per cent'.
10. at pages 3676-77—against case No. 3, under Madras, in Column 11, read 'balance' for 'balanc'.
11. at page 3678—(i) against case No. 9, in Column 4, for '4 per cent M. P. Loan 197X' read '4 per cent M. P. Loan 1971'.
- (ii) against case No. 10, in Column 7 on page 3679, the mark before the figure '31.50' to read as (jj).

- (iii) against case No. 15, in Column 3, line 2, read 'College' for 'Colege'.
 (iv) against case No. 15, in Column 11 on page 3679 for 'balanc' read 'balance'.
 12. at page 3682—against case No. 15.
 (i) in Column 4, for '3,800.00' against 'National Plan Savings Certificates' read '2,800.00'.
 (ii) in Column 11, line 1 for 'ntcrest' read 'interest' and in line 4 for 'Developmen' read 'Development'.

[No. F.1/1/68-SB-TCE.]

V. SWAMINATHAN, Under Secy.
 for Treasurer of Charitable Endowments for India.

(Department of Revenue and Insurance)

CORRIGENDUM

New Delhi, the 3rd September 1968

S.O. 3188.—In the notification of the Government of India in the Ministry of Finance (Department of Revenue and Insurance) No. S.O. 2958 dated the 31st August, 1968, published in the Gazette of India Extraordinary, Part II Section 3(ii), dated the 31st August, 1968 at No. 15 read Shri Haribhai Ranabhai Bhaskar for Shri Haribhai Shankerbhai Rana.

[No. 1(1)-Ins. II/68.]

RAJ K. NIGAM, Dy. Secy.

CENTRAL BOARD OF DIRECT TAXES

INCOME-TAX

New Delhi, the 3rd September 1968

S.O. 3189.—In exercise of the powers conferred by sub-section (1) of section 121 of the Income tax Act, 1961 (43 of 1961) the Central Board of Direct Taxes hereby makes the following amendments to the Schedule appended to its Notification No. 20 (I No. 55/1/62-IT), dated the 30th April, 1963, published as S.O. 1293 on pages 1454-1457 of the Gazette of India, Part II Section 3, sub-section (ii), dated the 11th May, 1963 as amended from time to time:—

Existing entries under columns (1), (2) and (3) against S. No. 15 and 15-A shall be substituted by the following entries:—

Income-tax Commissioners	Headquarters	Jurisdiction
1	2	3
15. Uttar Pradesh-I,	Lucknow.	1. Circle I, Lucknow. 2. Companies Circle, Lucknow. 3. Salary Circle, Lucknow. 4. Gonda 5. Sitapur 6. Hardoi 7. Circle I, Kanpur. 8. Circle II, Kanpur. 9. Companies Circle, Kanpur. 10. Special Circle, Kanpur. 11. Salary Circle, Kanpur. 12. Banda. 13. Etawah. 14. Jhansi.

1	2	3
		15. Varanasi 16. Special Circle, Varanasi 17. Azamgarh 18. Jaunpur 19. Mirzapur 20. Gorakhpur 21. Faizabad 22. Allahabad 23. Salary Circle, Allahabad 24. Ballia
15A. Uttar Pradesh-II	Lucknow.	1. Lucknow Circle -I 2. Bareilly 3. Naini Tal 4. Haldwani 5. Lakhimpur-Kheri 6. Rampur 7. Shahjahanpur 8. Fatehgarh 9. Mainpuri 10. Meerut 11. Salary Circle, Meerut 12. Saharanpur 13. Dehra Dun 14. Muzaffarnagar 15. Ghaziabad 16. Agra 17. Mathura 18. Bulandshahr 19. Aligarh 20. Firozabad 21. Moradabad 22. Najibabad 23. Roorkee 24. Estates Duty-cum-Incometax Circle, Kanpur 25. Estate Duty-cum-Incometax Circle, Lucknow 26. Estate Duty-cum-Incometax Circle, Allahabad 27. Estates Duty-cum-Incometax Circle, Dehra Dun

This notification shall come into force with immediate effect.

[No. 78 (F. No. 55 /278/68-IT-A-III)]

J. C. KALRA, Secy.

CENTRAL EXCISE COLLECTORATE, WEST BENGAL, CALCUTTA

CENTRAL EXCISE

Calcutta, the 30th August 1968

S.O. 3190.—Notification No. 3/1968 (C.E.) dated, Calcutta, the 7th June, 1968 issued by this Collectorate is hereby rescinded.

[No. 4/1968.]

D. R. KOHLI, Collector.

MINISTRY OF PETROLEUM AND CHEMICALS

(Department of Petroleum)

New Delhi, the 3rd August 1968

S.O. 3191.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 2099 dated 7th June, 1968, under sub-section (i) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962) the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (I) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas, in exercise of the power conferred by sub-section (I) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government, vest on this date of the publication of this declaration in the Oil and Natural Gas Commission free from all encumbrances.

SCHEDULE

State—Gujarat Dist.—Kaira Taluka—Cambay

Village	S. No.	Hectare	Arc.	P. Arc.
Patlawadi	41	0	9	11

[No. 31(38)/63-ONG/IOC.]

S.O. 3192.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 1726 dated 7th May, 1968, under sub-section (i) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962) the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (I) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas, in exercise of the power conferred by sub-section (I) of the Section 6 of the said Act the Central Government hereby declares the right of use in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government, vest on this date of the publication of this declaration in the Oil and Natural Gas Commission free from all encumbrances.

(Laying Pipeline from Well No. 80 to G.G.S.II)

SCHEDULE

State—Gujarat Dist.—Gandhinagar Tal.—Gandhinagar.

Village	S. Nos.	Hectare	Arc.	P. Arc.
Sertha	1217/1	0	6	57
"	1217/2	0	12	94
"	1223	0	1	01
"	1222/2	0	9	51
"	1221	0	2	62
"	1222/2	0	6	16
"	1220	0	2	03

[No. 29/9/68-IOC.]

S.O. 3193.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 1723 dated 3rd May, 1968, under sub-section (i) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962) the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (I) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas, in exercise of the power conferred by sub-section (I) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government, vest on this date of the publication of this declaration in the Oil and Natural Gas Commission free from all encumbrances.

(Laying Production Pipeline from D.S.B.L. to Line B.M.)

SCHEDULE

State—Gujarat

Dist.—Kaira

Taluka—Matar

Village	S. No.	Hectare	Acre.	Pr. Arc.
Kathavada	16	0	5	00
"	17	0	2	00
"	15	0	1	50
"	63	0	7	00
"	65	0	14	00
"	66	0	7	00
"	128	0	13	00
"	126	0	18	00
"	125	0	5	00
"	154/1-P }	0	5	00
"	154/2 }			
"	155	0	4	00
"	156	0	12	00
"	164	0	7	00
"	190/1 }			
"	190/2 }			
"	190/3/1 }	0	5	00
"	190/3/2 }			
"	190/4 }			

(Laying Production Pipeline from D.S.BBE to B.N.BO)

Navagam	339/1 }	0	02	00
"	339/2 }	0	06	00
"	340	0	02	00
"	355			
"	429/1 }			
"	429/2 }			
"	429/3 }	0	8	00
"	429/4 }			
"	429/5 }			
"	429/6 }			
"	429/7 }			
"	424	0	8	00
"	425	0	6	00
"	426/1 }	0	6	00
"	426/2 }			

Village	Survey No.	Hectare	Acre	P. Are.
Navagam	422	0	2	50
"	443	0	6	00
"	439	0	1	00
"	442	0	9	00
"	485/1	0	4	00
"	485/2			
"	484	0	4	00
"	477/1			
"	477/2	0	1	00
"	477/3			
"	477/4			
"	481	0	7	00
"	492	0	0	50
"	493	0	5	00
"	494	0	4	00
"	469/1	0	1	00
"	495/1	0	5	00
"	495/2			
"	467/I.P	0	4	00
"	467/2			

[No. 29(10)/68-IOC.]

New Delhi, the 19th August 1968

S.O. 3194.—Whereas it appears to the Central Government that it is necessary in the public interest that the transport of Petroleum from flare point to G.G.S. IV in the (Kalol) Oil Field, in Gujarat State, Pipelines should be laid by the Oil and Natural Gas Commission and that for the purpose of laying such Pipelines, it is necessary to acquire the Right of user in the land described in the schedule annexed thereto.

Now, therefore, in exercise of the powers conferred by Sub-section (i) of the Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the said land may within 21 days from the date of this notification object to the laying of the pipelines under the land to the Competent Authority, Gujarat Pipelines, O.N.G.C. Western Region, Near Central Workshop, Makarpura Road, Baroda-4 in the Office of the Gujarat Pipelines Project (Oil and Natural Gas Commission) Baroda. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

State—Gujarat Dist.—Mehasana Tal—Kalol

Laying pipeline from Flare point to G.G.S. IV

Village	S.No.	Hectare	Acre	P. Are
Dhamsan	89I/1+2	..	3	20

[No. 29/5/68-IOC(i)]

S.O. 3195.—Whereas it appears to the Central Government that it is necessary in the public interest that the transport of Petroleum from the drill sites well No. 89, to 107 to well No. K-15 in the (Kalol) Oil Field, in Gujarat State, Pipelines should be laid by the Oil and Natural Gas Commission and that for the purpose of laying such Pipelines, it is necessary to acquire the Right of user in the land described in the Schedule annexed thereto

Now, therefore, in exercise of the powers conferred by Sub-section (i) of the Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the said land may, within 21 days from the date of this notification object to the laying of the pipelines under the land to the Competent Authority, at Gujarat Pipelines, ONGC, Western Region, Near Central Workshop, Makarpura Road, Baroda-4 in the Office of the Gujarat Pipelines Project (Oil and Natural Gas Commission) Baroda. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

State—Gujarat

Distt—Ahmedabad

Tal.—Dascroi

Laying Pipeline from Well No. 89 and 107 to Well No. K. 15.

Village	S. No.	Hectare	Acre	P. Acre.
Uvarsad	993/2	..	6	96
.. . . .	991	..	16	59
.. . . .	V. P. Cart track Grossing	..	0	50
.. . . .	1085	..	4	55
.. . . .	1085/1 & 2	..	4	55
.. . . .	1081/1 or 3	..	3	14
.. . . .	1081/2	..	4	75
.. . . .	1080/1/2	..	2	52
.. . . .	1080/1/1	..	3	14
.. . . .	1082	..	8	39
.. . . .	1076	..	2	82
.. . . .	V. P. Road.	..	1	81
.. . . .	1100	..	1	00
.. . . .	1105	..	9	41
.. . . .	1103	..	3	64
.. . . .	1104	..	12	23

[No. 29/5/68-IOC(ii).]

New Delhi, the 22nd August 1968

S.O. 3196.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum from Kalol-Oil Field in Gujarat State to Koyali Refinery via Navagam in Gujarat State, Pipelines should be laid by the Oil and Natural Gas Commission and that for the purpose of laying such Pipelines, it is necessary to acquire the Right of User in the land described in the schedule annexed thereto.

2. Now, therefore, in exercise of the powers conferred by Sub-Section (i) of the Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification object to the laying of the Pipelines under the land to the Competent Authority, at Geology Shed of O.N.G.C. (W.R.), near Central Workshop, Makarpura Road, Baroda-4 in the Office of the Gujarat Pipelines (Oil and Natural Gas Commission), Baroda. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

KALOL—KOYALI VIA. NAVAGAM CRUDE PIPELINE

SCHEDULE

Stat:—Gujarat

Distt.—Ahmedabad

Taluka—City

Village	Survey No.	Hectare	Acre	P. Acre.
Ghatlodia	180	0	3	68
"	178/1	0	2	38
"	178/2	0	1	71
"	181	0	7	58
"	177/2	0	22	69
"	175/1	0	11	64
"	175/2	0	11	95
"	173	0	12	26
"	171	0	14	09
"	V. P. Road	0	0	43
Chandlodia	V. P. Road.	0	0	43
"	174	0	21	46
"	167/9	0	14	02
"	167/8	0	0	60
"	167/5	0	10	98
"	166	0	1	33
"	167/2	0	3	21
"	167/3	0	15	94
"	162	0	7	35
"	158	0	9	81
"	159	0	4	90
"	160	0	0	60
"	194	0	29	44
"	195	0	0	60
"	V. P. Road.	0	2	14
"	202	0	12	87
"	201	0	14	0

[No. 20/3/67-IOC.]

New Delhi, the 26th August 1968

S.O. 3197.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum from Kalol Oil Field in Gujarat State to Koyali Refinery via Navagam in Gujarat State, Pipelines should be laid by the Oil & Natural Gas Commission and that for the purpose of laying such Pipelines, it is necessary to acquire the Right of User in the land described in the schedule annexed thereto.

Now, therefore, in exercise of the Powers conferred by sub-section (i) of the Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the said land may, within 21 days from the date of this notification object to the laying of the Pipelines under the land to the Competent Authority, at Geology Shed of O.N.G.C. (W.R.), near Central Workshop, Makarpura Road, Baroda-4 in the Office of the Gujarat Pipelines (Oil & Natural Gas Commission), Baroda. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

KALOL-KOYALI VIA. NAVAGAM CRUDE PIPELINE

SCHEDULE

State—Gujarat

Distt.—Mehsana

Taluka—Kalol

Village	Survey No.	Hectare	Are	P. Are
Jaspur	673	0	9	81
"	672	0	6	13
"	V. P. Road	0	1	22
"	584	0	11	64
"	585	0	12	87
"	586/1	0	6	18
"	587	0	7	95
"	588	0	10	64
"	592	0	13	79
"	590	0	0	76
"	612	0	33	10
"	618	0	26	38
"	623	0	7	08
"	619	0	15	94
"	620	0	13	15
"	V. P. Road	0	1	83
"	550/2	0	11	34
"	550/3	0	24	12
"	545	0	2	23
"	541/1	0	9	21
"	541/2	0	7	34
"	543	0	7	66
"	542	0	13	48
"	438/2	0	1	56
"	538/1	0	1	22
"	537	0	13	60
"	511	0	5	67
"	493	0	12	26
"	510	0	0	55
"	494	0	16	86
"	500	0	0	65
"	505	0	4	26
"	502	0	2	71
"	501	0	4	60
"	V. P. Road	0	1	71
"	414	0	19	62
"	417	0	18	39
"	418	0	7	66
"	419	0	13	79
"	V. P. Road	0	0	49
"	420	0	5	51
"	422	0	4	83
"	423	0	15	33
"	V. P. Road	0	0	91
"	294	0	12	26
"	310	0	25	44
"	317	0	17	78
"	318	0	15	53
"	326	0	14	02
"	V. P. Road	0	1	83
"	328	0	2	44
"	335	0	28	82
"	332	0	3	07
"	338	0	1	66
"	339	0	11	03
"	342	0	12	87

Village	Survey No.	Hectare	Are	P. Are
Jasipur— <i>contd.</i>	347	0	4	90
"	345	0	0	36
"	346	0	15	01
"	348	0	15	33
"	V. P. Road	0	0	60
"	353	0	27	59
"	356	0	12	26
"	355	0	18	07
"	354	0	0	12
Dhanoj	337/P	0	3	98
"	337/P	0	3	07
"	337/P	0	5	21
"	337/P	0	14	71
"	337/P	0	16	55
"	337/P	0	2	39
"	V. P. Road	0	2	44
"	338	0	0	16
"	339	0	18	39
"	344/P	0	15	94
"	344/P	0	15	33
"	348/1	0	12	87
"	348/2	0	4	90
"	350/1	0	19	92
"	350/2	0	21	14
"	359	0	19	41
"	368	0	11	95
"	358	0	31	87
"	370/2	0	2	04
"	V. P. Road	0	3	37
"	370/1	0	7	95
"	371	0	6	72
"	427	0	10	12
"	424	0	0	91
"	426	0	12	54
"	425	0	12	54
"	424/P	0	6	13
"	424/P	0	3	40
"	415/P	0	12	88
"	415/P	0	20	23
"	V. P. Road	0	0	60
"	410	0	5	59
"	V. P. Road	0	2	60
"	413	0	6	07
"	412	0	20	83
"	500	0	17	16
"	499	0	7	35
"	505	0	11	03
"	506	0	29	43
"	V. P. Road	0	0	91
"	518/1	0	7	95
"	518/2/P	0	5	51
"	518/2/P	0	4	90
"	518/2/P	0	2	28
"	517	0	0	53
"	533	0	16	55
"	534/P	0	8	58
"	534/P	0	12	26
"	537	0	19	62
"	538	0	14	71
"	541	0	0	91
"	542	0	7	95
"	V. P. Road	0	0	60
Saij	1028/4	0	9	20
"	1028/3	0	2	55
"	1028/2	0	0	12
"	1029/2	0	8	09

Village	Survey No.	Hectare	Are	P. Arc.
Saij —contd.	1029/1	0	14	31
"	1058/2	0	7	42
"	1058/1	0	7	86
"	1057	0	7	95
"	1054/4	0	1	46
"	1065/1	0	2	59
"	1054/2	0	0	10
"	1052	0	18	51
"	1066	0	8	58
"	1070/1	0	9	81
"	1070/2	0	7	95
"	1073	0	11	34
"	1071/1	0	2	67
"	1072/1	0	1	94
"	1072/4	0	7	34
"	1079/1	0	19	00
"	1082	0	7	95
"	1081/2	0	4	90
"	1081/1	0	2	75
"	V.P. Road	0	0	91

[No. 20/3/67-IOC(A).]

S.O. 3198.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum from Kalol Oil Field in Gujarat State to Koval Refinery *via* Navagam in Gujarat State, Pipelines should be laid by the Oil & Natural Gas Commission and that for the purpose of laying such Pipelines, it is necessary to acquire the Right of User in the land described in the schedule annexed thereto.

Now, therefore, in exercise of the Powers conferred by sub-section (i) of the Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the said land may, within 21 days from the date of this notification object to the laying of the Pipelines under the land to the Competent Authority, at Geology Shed of O.N.G.C. (W.R.), Near Central Workshop, Makarpura Road, Baroda-4 in the Office of the Gujarat Pipelines (Oil & Natural Gas Commission), Baroda. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

KALOL—KOYALI VIA, NAVAGAM CRUDE PIPELINE

SCHEDULE

Stat.—Gujarat

Dist.—Ahmedabad

Taluka—Daskroi

Village	Survey No.	Hectare	Are	P. Arc
Gota	339	0	12	26
"	340	0	14	71
"	341	0	15	33
"	342	0	17	78
"	344	0	6	68
"	343	0	3	81
"	379	0	0	16
"	378/4	0	11	64
"	378/3	0	21	26
"	378/1	0	10	64
"	383/1	0	6	73
"	384	0	22	68
"	400	0	0	41
"	388	0	0	35
"	395	0	22	07

Village	Survey No.	Hectare	Area	P. Are
Gota— <i>contd.</i>	393	0	4	60
"	392	0	7	95
"	391	0	7	04
"	V. P. Road	0	0	97
"	412	0	0	66
"	415	0	13	69
"	414	0	7	35
"	423	0	11	64
"	422/1	0	0	60
"	424	0	14	71
"	425	0	10	43
"	407	0	6	73
"	482	0	35	86
"	483	0	13	48
"	484	0	12	26
"	485	0	0	18
"	474	0	0	30
"	473	0	42	91
"	470	0	19	00
"	17	0	6	13
"	468	0	26	97
"	466	0	0	76
"	467	0	20	83
"	57	0	24	52
"	65	0	23	91
"	70	0	12	26
"	69	0	20	83
"	75	0	11	95
"	74/7	0	0	73
"	74/5	0	19	92
"	74/3	0	15	94
"	74/1	0	0	76
"	73	0	7	93
Oghanaj	605/1	0	13	79
"	605/2	0	11	03
"	604/2	0	4	90
"	604/1	0	4	83
"	604/3	0	1	01
"	602/3	0	9	81
"	602/2	0	0	33
"	603	0	5	21
"	601	0	14	71
"	599	0	9	81
"	V.P. Road	0	1	01
"	600	0	0	60
"	503	0	19	62
"	507	0	8	58
"	508	0	0	41
"	510/2	0	3	98
"	500	0	7	95
"	510/3	0	15	94
"	510/1	0	0	80
"	517	0	15	63
"	516	0	6	68
"	518/2	0	8	58
"	518/1	0	14	09
"	522/2	0	9	02
"	523	0	2	02
"	524	0	12	26
"	529	0	18	39
"	V.P. Road	0	2	75
"	370/1	0	7	95
"	370/2	0	3	68
"	372	0	16	55
"	371	0	1	83

Village	Survey No.	Hectare	Area	P.Are
Oghanai— <i>contd.</i>	384	0	4	60
"	373/1	0	18	69
"	374	0	17	16
"	375	0	10	43
"	376	0	11	34
"	377/1	0	0	76
"	378	0	0	91
"	361	0	13	48
"	360	0	0	69
"	V.P. Road	0	2	75
"	258/4	0	3	68
"	258/3	0	11	22
"	258/1	0	19	62
"	258/2	0	0	22
"	259	0	0	76
"	211	0	26	36
"	210	0	19	92
"	209	0	17	16
"	202	0	8	91
"	203	0	11	34
"	197	0	25	35
"	194	0	3	60
"	179	0	5	58
"	180	0	12	87
"	181	0	8	06
"	177	0	33	72
"	175	0	0	76
"	176	0	6	98
"	V.P. Road	0	0	97
"	119	0	24	52
"	120	0	31	87
"	V.P. Road	0	0	91
"	154/P	0	33	10
"	136/2	0	7	95
"	135	0	11	03
Lilapura	47	0	39	86
"	36	0	38	82
"	37	0	23	30
"	29/P	0	10	43
"	29/P	0	19	62
"	V.P. Road	0	1	22
"	218/1	0	10	43
"	218/2	0	7	35
"	218/5	0	0	34
"	218/6	0	14	34
"	219/2	0	27	59
"	213	0	32	49
"	214	0	18	39

[No. 20/3/67-IOC(B).]

CORRIGENDA

New Delhi, the 29th July 1968

S.O. 3199.....In the notification published as S.O. 1652 on page 2187 in Part II, Section 3(ii) of the Gazette of India dated 11-5-68, the following correction is notified:—

In line 5 of the last para for Section 6(I) Read Section 6(4).

[No. 31/67/63-Prod/I.O.C.]

New Delhi, the 30th July 1968

S. O. 3200.—In the notification published as S.O. 2019 on page 2724 in Part II, Section 3(ii) of the Gazette of India dated 8-6-68 the following correction is notified:—

In line 5 of the last para *for* Section 6 (1) *Read* Section 6 (4).

[No. 20/3/67-Prod/IOC (ii)]

New Delhi, the 31st July 1968

S. O. 3201.—In the notification published as S.O. 2246 on page 3120 in Part II, Section 3(ii) of the Gazette of India dated 29-6-68 the following correction is notified:—

In line 5 of the last para *for* Section 6(1) *Read* Section 6(4).

[No. 28(2)/68-IOC(A)]

S. O. 3202.—In the notification published as S.O. 2096 on pages 2962-63 in Part II, Section 3(ii) of the Gazette of India dated 15-6-68 the following correction is notified:—

In line 5 of the last para *for* Section 6(1) *Read* Section 6(4).

[No. 28(2)/68-IOC(B)]

S. O. 3203.—In the notification published as S.O. 2097 on pages 2963-64 in Part II, Section 3(ii) of the Gazette of India dated 15-6-1968, the following correction is notified:—

In line 5 of the last para *for* Section 6(1) *Read* Section 6(4).

[No. 28(2)/68-IOC(C)]

S. O. 3204.—In the notification published as S.O. 2098 on page 2964 in Part II, Section 3(ii) of the Gazette of India dated 15-6-68 the following correction is notified:—

In line 5 of the last para *for* Section 6(1) *Read* Section 6(4).

[No. 28(2)/68-IOC(D)]

ERRATA

New Delhi, the 31st August 1968

S.O. 3205.—In the notification of the Government of India, in the Ministry of Petroleum & Chemicals No. 20(3)/67-Prod/I.O.C. dated 21st December, 1967 published under S.O. No. 33 in the Gazette of India Part II, Section 3(ii) issued on 6th January, 1968. At page No. 36 and at Village Vadavswami for the area of S. No. 232.

"Read"			"For"		
Hectare	Are	P. Are	Hectare	Are	P. Are
0	5	44	0	2	72

[No 20/3/67-Prod/IOC.]

S.O. 3206.—In the notification of the Government of India in the Ministry of Petroleum & Chemicals No. 25/29/65-Prod—under S.O. No. 712 dated 5th January, 1967 published in the Gazette of India Part II, Section 3, sub-section (ii) dated 4th March, 1967.

(1) At page No. 533 and at village Ambapura for area of S. No. 134.

"Read"			"For"		
Hectare	Are	P. Are	Hectare	Are	P. Are
0	2	27	0	4	05

(2) At page No. 533 and at village Ambapura for area of S. No. 135.

"Read"			"For"		
Hectare	Are	P. Are	Hectare	Are	P. Are
0	0	50	0	8	09

[No. 25(29)/65-Prod/IOC.]

S.O. 3207.—In the notification of the Government of India in the Ministry of Petroleum & Chemicals, No. 29/11/68-IOC. Under S.O. No. 1787 dated 8th May, 1968 published in the Gazette of India, Part II Section 3 in the sub-section (ii) dated 25th May, 1968,

(1) At page No. 2338 in the schedule to the notification,

Read
Khodiyar

For
Khodivar

(2) At page No. 2338 add in the schedule to the notification the following words after State : Gujarat, Distt. Ahmedabad Taluka : Dascroi.

"Laying pipeline from G G S-1 to O.T. Sabarmati".

[No. 29/11/68-IOC.]

R. S. GOPALAN, Under Secy.

MINISTRY OF HEALTH, FAMILY PLANNING & URBAN DEVELOPMENT

(Department of Health and Urban Development)

New Delhi, the 23rd August 1968

S.O. 3208.—The Commission of Inquiry set up by the Central Government in the Ministry of Health, Family Planning and Urban Development (Department of Health & Urban Development) *vide* their Notification No. F.6-124/68-H dated the 13th June, 1968, for the purpose of making an inquiry into the circumstances leading to, and the causes of, the deaths of five student nurses, shall submit its report by the 23rd October, 1968, upto which period its term is hereby extended.

[No. F. 12-55/68-H.]

R. N. MADHOK, Jt. Secy.

स्वास्थ्य, परिवार नियोजन एवं नगर विकास मंत्रालय

(स्वास्थ्य एवं नगर विकास विभाग)

नई दिल्ली, 23 अगस्त, 1968

एस०ओ० 3209.—पाँच छात्रनर्सों की मृत्यु की परिस्थितियों तथा उनकी मृत्यु के कारणों की छानबीन करने के उद्देश्य से स्वास्थ्य, परिवार नियोजन एवं नगर विकास मंत्रालय के स्वास्थ्य एवं नगर विकास विभाग की 15 जून, 1968 की अधिसूचना संख्या एफ० 6-124/68—अस्पताल के अनुसार इस मंत्रालय में केन्द्रीय सरकार द्वारा गठित जाँच आयोग अपनी रिपोर्ट 23 अक्तूबर, 1968 तक प्रस्तुत करेगा। इसके कार्यकाल को एतद्द्वारा इस तिथि तक बढ़ा दिया जाता है।

[सं० 12-55/68-अस्पताल]

आर० एन० मधोक, संयुक्त सचिव।

(Department of Health & Urban Development)

New Delhi, the 26th August 1968

S.O. 3210.—Whereas in pursuance of clause (h) of sub-Section (2) of Section 3 of the Prevention of Food Adulteration Act, 1954 (37 of 1954), Dr. P. S. Venkatachalam (previously Assistant Director, Nutrition Research Laboratories, Hyderabad) and now Deputy Director, Indian Council of Medical Research, New Delhi has been re-nominated by the Indian Council of Medical Research as a member of the Central Committee of Food Standards representing the medical professor with effect from the 20th July, 1968.

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 3 of the said Act, the Central Government hereby directs that Dr. P. S. Venkatachalam, Deputy Director, Indian Council of Medical Research, New Delhi, shall continue to be a member of the Central Committee of Food Standards.

[No. F. 14-25/67-PH.]

M. C. JAIN, Under Secy.

(स्वास्थ्य एवं नगर विकास विभाग)

नई दिल्ली, 26 अगस्त, 1968

एस०प्रो०—3211 यतः खाद्य अपमिश्रण निवारण अधिनियम 1954 (1954 का 37) की धारा 3 की उप-धारा (2) के खण्ड (ज) के अनुसरण में भारतीय चिकित्सा अनुसंधान परिषद् पोषण अनुसंधान प्रयोगशाला, हैदराबाद के भूतपूर्व सहायक निदेशक तथा अब भारतीय चिकित्सा अनुसंधान परिषद्, नई दिल्ली के उप-निदेशक डा० पी० एस० वेन्कटचलम को 20 जुलाई, 1968 से चिकित्सा वृत्ति के प्रतिनिधि के रूप में खाद्य मानकों की केन्द्रीय समिति में पुनः सदस्य मनोनीत करती है।

2. अतः अब उपर्युक्त अधिनियम की धारा 3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा निदेश देती है कि भारतीय चिकित्सा अनुसंधान परिषद् नई दिल्ली के उप-निदेशक डा० पी० एस० वेन्कटचलम खाद्य मानकों की केन्द्रीय समिति के सदस्य बने रहेंगे।

[प० सं० 14-25/67-जन स्वास्थ्य]

एम० सी० जैन, अव्वर सचिव।

(Department of Health & Urban Development)

New Delhi, the 26th August 1968

S.O. 3212.—In exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consultation with the Medical Council of India hereby directs that the medical qualification "M.D. (New York Medical College, New York, U.S.A.)" shall be a recognised medical qualification for the purposes of that Act.

[No. F. 19-30/68-MPT.]

New Delhi, the 30th August 1968

S.O. 3213.—In the notification of the Government of India in the Ministry of Health, Family Planning and Urban Development (Department of Health), No. S.O. 1657, dated the 29th April, 1968 and published in the Gazette of India, Part II, Section 3, Sub-Section (ii), at pages 2189-90—

at page 2190, in line 10, for "Doctor of Medicine (Psychology)", read "Doctor of Medicine (Physiology)".

[No. F.18-33/67-MPT.]

ORDERS

New Delhi, the 31st July 1968

S.O. 3214.—Whereas the Government of India in the late Ministry of Health has, by notification No. 32-30/63-MPT, dated the 5th June, 1964, made in exercise of the powers

conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised the medical qualification "M.D. (John Hopkins University, U.S.A.)" for the purpose of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of Section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby specifies a further period of two years with effect from the 21st September, 1967, or so long as Dr. Lorraine Tolman Biswanger who possesses the said qualification, continues to work in the Christian Hospital, Jhokan Bagh Jhansi to which she is attached for the time being for the purposes of teaching, research or charitable work, whichever is shorter, as the period to which the medical practice of the said Dr. Lorraine Tolman Biswanger shall be limited subject to the condition that the said doctor continues to be enrolled as a medical practitioner for the said period in accordance with the law regulating the registration of medical practitioners in her country.

[No. F. 19-20/68-MPT.]

New Delhi, the 5th August 1968

S.O. 3215.—Whereas the Government of India in the late Ministry of Health has, by notification No. 16-17/60-MI, dated the 2nd February, 1961, made, in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised the medical qualification "M.D. (College of Medical Evangelists, Los Angeles, California USA)" for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby specifies a period of two years with effect from the date of issue of this Order or so long as Dr. Bernar Benjamin Johnson who possesses the said qualification, continues to work in the Christian Medical College and Hospital, Vellore to which he is attached for the time being for the purposes of teaching, research or charitable work, whichever is shorter, as the period to which the medical practice of the said Dr. Bernar Benjamin Johnson shall be limited subject to the condition that the said doctor continues to be enrolled as a medical practitioner for the said period in accordance with the law regulating the registration of medical practitioners in his country.

[No. F. 19-21/68-MPT.]

New Delhi, the 23rd August 1968

S.O. 3216.—Whereas the Government of India in the late Ministry of Health has, by notification No. 17-2/60-MI, dated the 22/25th August, 1960 made, in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised the medical qualification "M.D. (University of Leipzig)" for the purpose of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby specifies a period of two years with effect from the date of issue of this order or so long as Dr. (Mrs.) Helga Sharma who possesses the said qualification, continues to work in the Charitable Dispensary of Catherine's Home, Andheri, Bombay-58, to which she is attached for the time being for the purposes of teaching, research or charitable work, whichever is shorter, as the period to which the medical practice of the said Dr. (Mrs.) Helga Sharma shall be limited provided that the said doctors continues to be enrolled as a medical practitioner for the said period in accordance with the law regulating the registration of medical practitioners in her country.

[No. F. 19-24/68-MPT.]

New Delhi, the 29th August 1968

S.O. 3217.—Whereas the Government of India in the Ministry of Health and Family Planning has, by notification No. 19-30/68-MPT, dated the 26th August, 1968 made, in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical

Council Act, 1956 (102 of 1956), recognised the medical qualification "M.D. (New York Medical College, New York, U.S.A.)" for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby specifies a period of two years with effect from the date of issue of this order or so long as Dr. Lawrence Raymond W. who possesses the said qualification, continues to be employed with American Peace Corps, Delhi Regional Office, New Delhi, to which he is attached for the time being for the purposes of teaching, research or charitable work, whichever is shorter, as the period to which the medical practice of the said Dr. Lawrence, Raymond W. shall be limited. Provided that the said doctor continues to be enrolled as a medical practitioner for the said period in accordance with the law regulating the registration of medical practitioners in his country.

[No. F. 19-30/68-MPT.]

K. DEO, Under Secy.

(Department of Health)

(Drugs Section)

New Delhi, the 3rd September 1968

S.O. 3218.—In exercise of the powers conferred by sub-section (7) of Section 5 of the Drugs and Cosmetics Act, 1940 (23 of 1940), the Central Government hereby appoints Shri P. S. Ramachandran, Drugs Controller (India) as Secretary of the Drugs Technical Advisory Board *vice* Shri S. K. Borkar.

[No. F. 4-6/68-D.]

L. K. MURTHY, Under Secy.

MINISTRY OF TOURISM AND CIVIL AVIATION

ORDER

New Delhi, the 30th August 1968

S.O. 3219.—In exercise of the powers conferred by rule 160 of the Aircraft Rules, 1937, the Central Government hereby exempts for a further period of one year with effect from 1st September, 1968, all holders of appropriate Aircraft Maintenance Engineers Licences granted or rendered valid by appropriate authorities of the United Kingdom and Australia from the operation of rule 61 in so far as it relates to rules 57, 58 and 60 of the said rules and directs that the holders of such licences may act as Aircraft Maintenance Engineers in connection with the repair, overhaul, modification and maintenance of aircraft owned and operated by Air-India.

[No. F. 10-A/63-68.]

S. N. KAUL, Under Secy.

MINISTRY OF TRANSPORT AND SHIPPING

(Transport Wing)

New Delhi, the 3rd August 1968

S.O. 3220.—In exercise of the powers conferred by sub-section (2) of section 8 of the Jayanti Shipping Company (Taking over of Management) Act, 1966 (24 of 1966), the Central Government hereby makes the following further modifications in the notification of the Government of India in the Ministry of Transport and Aviation, Department of Transport, Shipping and Tourism (Transport Wing), No. S.O. 2537, dated the 18th August, 1966, namely:—

In the said notification, after item (iv), the following items shall be inserted, namely:—

- (v) sub-sections (1) and (2) of section 360 shall not apply where the terms of the contract proposed to be entered into, or entered into, between the Jayanti Shipping Company Limited and its managing agent or an associate of the managing agent, have been approved by the Board of Control, whether before or after the date of issue of this notification:

Provided that where any such contract is proposed to be entered into, or entered into, after the date of issue of this notification, the material terms of such contract shall be set out in the resolution of the Board of Control whereby the terms of such contract are, or have been, approved;

(vi) in section 375, in sub-section (1), the words "unless such company, by special resolution, permits him to do so" shall not apply where the Central Government permits or has permitted him to do so."

[No. 32-MD(6)/68.]

LIGHTHOUSE AND LIGHTSHIPS :

New Delhi, the 7th August 1968

S.O. 3221.—In exercise of the powers conferred by sub-section (1) of section 4 of the Indian Lighthouse Act, 1927 (17 of 1927) the Central Government hereby appoints Shri B. K. Gaikwad to be a member of the Central Advisory Committee *vice* Shri P. K. Koya retired and makes the following amendment to the notification of the Government of India in the Ministry of Transport and Shipping (Transport Wing) S.O. 2490, dated 17th July, 1967, namely:—

In the said notification, for item 14 in the list of members, the following item shall be substituted, namely:—

"14. Shri B. K. Gaikwad, Member Rajya Sabha".

[No. 4-ML(1)/67.]

B. P. SRIVASTAVA, Dy. Secy.

(Transport Wing)

New Delhi, the 7th August 1968

S.O. 3222.—In the notification of the Government of India in the Ministry of Transport and Shipping (Transport Wing) No. S.O. 1906, dated the 20th May 1968 published at pages 2591 to 2592 of the Gazette of India, Part II, Section 3, Sub-Section (ii) dated the 1st June, 1968 at page 2592, in the first line,

for "Seamen's Employment Office (Foreign-going)".

read "Seamen's Employment Board (Foreign-going)".

[No. 15-MT(6)/67.]

M. K. BHATE, Under Secy.

(Transport Wing)

MERCHANT SHIPPING

New Delhi, the 21st August 1968

S.O. 3223.—In exercise of the powers conferred by clause (a) of sub-section (3) of section 5 of the Seamen's Provident Fund Act, 1966 (4 of 1966), read with paragraph 3 of the Seamen's Provident Fund Scheme, 1966, the Central Government hereby appoints the Director-General of Shipping, Bombay, as the Chairman of the Board of Trustees of the Seamen's Provident Fund and makes the following further amendment in the notification of the Government of India in the late Ministry of Transport and Aviation, Department of Transport, Shipping and Tourism (Transport Wing) No. S.O. 2878, dated the 20th September, 1966, namely:—

In the said notification, under the heading, "Chairman", for the entry "Shri Govind H. Seth, Additional Director General of Shipping, Bombay", the entry "Director-General of Shipping, Bombay." shall be substituted.

[No. 5-MT(2)/66.]

K. V. SANKARAN, Deputy Secy.

DEPARTMENT OF COMMUNICATIONS

(P. and T. Board)

New Delhi, the 27th July, 1968

S.O. 3224.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627 dated 8th March, 1960, the Director-General, Posts and Telegraphs, hereby specifies the 16-8-68 as the date on which the Measured Rate System will be introduced in Krishnaagar Telephone Exchange.

[No. 5/48/68-PHB (3)]

New Delhi, the 31st August 1968

S.O. 3225.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627 dated 8th March, 1960, the Director General, Posts and Telegraphs, hereby specifies the 1st October, 1968 as the date on which the Measured Rate System will be introduced in Always Telephone Exchange.

[No. 5-37/68-PHB.1]

D. R. BAHL,
Assistant Director General (PHB.)

संचार विभाग

(डाक तार बोर्ड)

नई दिल्ली 27 जुलाई, 1963

एस० ओ० 3226.—स्थायी आदेश क्रमसंख्या 627, दिनांक 8 मार्च 1960 द्वारा लागू किये गए 1951 के भारतीय तार नियमों के नियम 434 के खण्ड III के पैरा (क) के अनुसार डाक-तार महानिदेशक ने कृशनगर टेलिफोन केन्द्र में 16-8-68 से प्रमाणित दर प्रणाली लागू करने का निश्चय किया है।

[सं० 5/48/68 पी० एच० बी० (3).]

नई दिल्ली, 31 अगस्त 1968

एस० ओ० 3227.—स्थायी आदेश क्रमसंख्या 627 दिनांक 8 मार्च 1960 द्वारा लागू किए गए 1951 के भारतीय तार नियमों के नियम 434 के खंड III के पैरा (क) के अनुसार डाक-तार महानिदेशक ने अलवाय टेलिफोन केन्द्र में 1-10-68 से प्रमाणित दर प्रणाली लागू करने का निश्चय किया है।

[सं० 5-37/68-पी० एच० बी०]

डी० आर० बहल,
सहायक महानिदेशक (पी० एच० बी०)।

CENTRAL ELECTRICITY AUTHORITY

New Delhi, the 22nd August 1968

S.O. 3228.—In exercise of the powers conferred by sub-section 6 of Section 3 of the Electricity (Supply) Act 1948 the Central Electricity Authority hereby appoints Shri S. Das Sharma, Asstt. Design Engineer (Elec.), Damodar Valley Corporation, as Asstt. Secretary, Eastern Regional Electricity Board, Patna, with effect from the forenoon of the 12th August, 1968, until further orders.

[No. 21/6/66-Admn.I(PW).]
M. M. DHAWAN, Under Secy.
for Chairman,
Central Electricity Authority.

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 26th July 1968.

S. O. 3229.—In exercise of the power conferred by sub-section (1) of section 3 of the Cinematograph Act, 1952, read with rule 4 of the Cinematograph (Censorship) Rules, 1958, the Central Government hereby appoints Shri B. R. Chopra as a member of the Central Board of Film Censors with immediate effect.

[No. F. 11/8/67-FC]

New Delhi, the 29th July 1968

S. O. 3230.—In exercise of the powers conferred by Section 5(i) of the Cinematograph Act, 1952 and sub-rule (3) of rule 8 read with sub-rule 2 of rule 9 of the Cinematograph (Censorship) Rules, 1958 the Central Government hereby reappoints following persons as members of the Advisory Panel of Central Board of Film Censors at Bombay with immediate effect.

1. Smt. T. V. Dehejia
2. Smt. Maniben Desai

[No. 11/2/68-F(C).]

S. O. 3231.—In exercise of the powers conferred by Section 5(i) of the Cinematograph Act 1952, and sub-rule (3) of rule 8 read with sub-rule 2 of rule 9 of the Cinematograph (Censorship) Rules, 1958, the Central Government hereby reappoints following persons as members of the Advisory Panel of Central Board of Film Censors, Madras with immediate effect.

1. Smt. P. V. Bhagirathi
2. Smt. Indira D. Kothari
3. Smt. Bertha Lobo

[No. 11/3/68-F(C).]

New Delhi, the 3rd August 1968

S.O. 3232.—In exercise of the powers conferred by Section (5) (1) of the Cinematograph Act, 1952 and sub-rule (3) of rule 8 read with sub-rule 2 of rule 9 of the Cinematograph (Censorship) Rules, 1958, the Central Government hereby appoints Shri Saumyendra-nath Tagore as a member of the Advisory Panel of the Central Board of Film Censors at Calcutta with immediate effect.

[No. 11/1/68-F(C).]

New Delhi, the 28th August 1968

S.O. 3233.—In exercise of the powers conferred by Clause (C) of sub-section (2) of Section 6 of the Cinematograph Act, 1952 (37 of 1952) the Central Government hereby directs that the exhibition of the film "The Return of Ringo" in respect of which certificate No. U-51829 dated the 9th October, 1967 for public exhibition has been granted by the Central Board of Film Censors be suspended for a period of two months with effect from the date of issue of this Notification.

[No. F. 7/9/68-F(C).]

H. B. KANSAL, Under Secy.

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 26 जुलाई 1968

एस० ओ० 3234.—सिनेमाटोग्राफ (सेन्सरशिप) रूल, 1958 के नियम 4 के साथ पठित सिनेमाटोग्राफ एक्ट 1952 की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों के अन्तर्गत भारत सरकार की बी० आर० चोपड़ा को अभी से केन्द्रीय फिल्म सेन्सर बोर्ड का सदस्य नियुक्त करती है।

[संख्या 11/8/68-एफ (सी)]

नई दिल्ली, 29 जुलाई, 1968

एस० ओ० 3235.—सिनेमाटोग्राफ एक्ट 1952 के खण्ड 5 (1) तथा सिनेमाटोग्राफ (सेन्सरशिप) रूल्स, 1958 के नियम 9 के उपनियम 2 के साथ पठित नियम 8 के उपनियम (3) में प्रदत्त शक्तियों के अनुसार केन्द्रीय सरकार निम्नलिखित व्यक्तियों को केन्द्रीय फिल्म सेन्सर बोर्ड, बम्बई के सलाहकार पैनल में अभी से पुनः नियुक्त करती है :—

1. श्री टी० बी० देहेजिआ
2. श्रीमती मनिबेन वेसाई

[संख्या 11/1/68 एफ (सी).]

एस० ओ० 3236.—सिनेमाटोग्राफ एक्ट, 1952 के खण्ड 5 (1) तथा सिनेमाटोग्राफ (सेन्सरशिप) रूल्स, 1958 के नियम 9 के उपनियम 2 के साथ पठित नियम 8 के उपनियम (3) में प्रदत्त शक्तियों के अनुसार केन्द्रीय सरकार निम्नलिखित व्यक्तियों को केन्द्रीय फिल्म सेन्सर बोर्ड, मद्रास के सलाहकार पैनल में अभी से पुनः नियुक्त करती है :—

1. श्रीमती पी० बी० भागीरथी
2. श्रीमती इन्दिरा जी० कोठारी
3. श्रीमती बेरेथा लोबो

[संख्या 11/3/68—एफ(सी).]

नई दिल्ली, 3 अगस्त 1968

एस० ओ० 3237.—सिनेमाटोग्राफ एक्ट, 1952 के खण्ड 5 (1) तथा सिनेमाटोग्राफ (सेन्सरशिप) रूल्स, 1958 के नियम 9 के उपनियम 2 के साथ पठित नियम 8 के उपनियम (3) में प्रदत्त शक्तियों के अनुसार केन्द्रीय सरकार श्री सोमेन्द्र नाथ टैगोर को केन्द्रीय फिल्म सेन्सर बोर्ड कलकत्ता के सलाहकार पैनल में अभी से नियुक्त करती है ।

[सं० 11/1/68—एफ० (सी).]

नई दिल्ली, 28 अगस्त 1968

एस० ओ० 3238.—चलचित्र अधिनियम 1952 (1952 का 37) की धारा 6 की उप-धारा (2) की धारा (ग) द्वारा दिए गए अधिकारों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा निर्देश देती है कि “दी रीटर्न आफरिंग” नामक फिल्म, जिसके बारे में केन्द्रीय फिल्मसेन्सर बोर्ड द्वारा सार्वजनिक प्रदर्शन के लिए प्रमाण-पत्र संख्या यू०-51829 तारीख 9 अक्टूबर 1967 दिया गया है, का प्रदर्शन इस अधिवृत्त की तिथि से दो महीने की अवधि के लिए रोक दिया जाए ।

[सं० 7/9/68—एफ (सी).]

हरि बाबू कंसल, अवर सचिव ।

ORDERS

New Delhi, the 23rd August 1968

S.O. 3239—In pursuance of the directions issued under the provisions of each of the enactments specified in the First Schedule annexed hereto, the Central Government after considering the recommendations of the Films Advisory Board, Bombay hereby approves the film specified in column 2 of the Second Schedule annexed hereto in Gujarati to be of the description specified against it in column 6 of the said Second Schedule.

THE FIRST SCHEDULE

- (1) Sub-Section 4 of Section 12 and Section 16 of the Cinematograph Act, 1952 (Central Act XXXVII of 1952).
 (2) Sub-Section (3) of Section 5 and Section 9 of the Saurashtra Cinemas (Regulation) Act, 1953 (Saurashtra Act XVII of 1953).
 (3) Sub-Section (4) of Section 5 and Section 9 of the Bombay Cinemas (Regulation) Act, 1953 (Saurashtra Act XVII of 1953).

THE SECOND SCHEDULE

Sl. No.	Title of the film	Length 35 mm	Name of the Applicant	Name of the Producer	Whether a Scientific film or a film intended for educational purposes or a film dealing with news and current events or a documentary film.
1	2	3	4	5	6
1	Pragati Ni Prerna (Ahmedabad District)	565.45 M	Director of Information, Government of Gujarat, Ahmedabad-15.		Documentary film (For release in Gujarat Circuit only).

[No. F. 24/1/68-FP App. 1280].

S.O. 3240.—In pursuance of the Directions issued under the provisions of each of the enactments specified in the first Schedule annexed hereto, the Central Government after considering the recommendation of the Film Advisory Board, Bombay hereby approves the film specified in column 2 of the second Schedule annexed hereto in all its language versions to be of the description specified against it in column 6 of the said second Schedule.

THE FIRST SCHEDULE

Sub-Section (4) of Section 5 of the Uttar Pradesh Cinemas (Regulation) Act, 1955 (Uttar Pradesh Act No. 3 of 1956).

THE SECOND SCHEDULE

Sl. No.	Title of the film	Length 35 mm	Name of the Applicant	Name of the Producer.	Whether a scientific film or a film intended for educational purposes or a film dealing with news and current events or a documentary film.
1	2	3	4	5	6
1	Upcharika	403.19 M	Director of Information, Govt. of Uttar Pradesh, Lucknow.		Film intended for educational purposes (For release in U.P. Circuit only).

[No. F. 24/1/68-FP App. 1281.]

BANU RAM AGGARWAL, Under Secy.

DELHI DEVELOPMENT AUTHORITY

New Delhi, the 30th July 1968.

S.O. 3241.—In pursuance of Section 52 of the Delhi Development Act (No. 61 of 1957), the Delhi Development Authority hereby empowers its Chairman to approve plans and proposals of the following categories, subject to the condition that such plans and proposals have been supported by the Standing Committee set up by the Authority by Resolution No. 425 dated the 12th May, 1967:—

- (1) Alignments and right-of-way plans of all Master Plan Roads;
- (2) All programmes and all layout plans of works to be undertaken by the Delhi Development Authority;
- (3) Route lines of the D.E.S.U.;
- (4) Minor modifications in the village redevelopment plans; and
- (5) Architectural control drawings.

[No. F. 1(41)/68-G.A.]

M. L. MONGIA, Secy.

MINISTRY OF COMMERCE

TEA CONTROL

New Delhi, the 21st August 1968

S.O. 3242.—In exercise of the powers conferred by section 4 of the Tea Act, 1953 (29 of 1953), read with sub-rule (3) of rule 4 and rule 5 of the Tea Rules, 1954, the Central Government hereby appoints Shri K. B. Warriar, Secretary to the Government of Kerala, Industries Department, Trivandrum, as a member of the Tea Board and specifies that the said member shall hold office up to and inclusive of the 31st March, 1969, and makes the following further amendment in the notification to the Government of India in the Ministry of Commerce No. S.O. 1143, dated the 6th April, 1966, namely:—

In the said notification, against item 6, for the entry "The Chief Secretary to the Government of Kerala, Trivandrum (*Ex-officio*)", the entry "Shri K. B. Warriar, Secretary to the Government of Kerala, Industries Department, Trivandrum" shall be substituted.

[No. 7(2)-PLANT(A)/65.]

COFFEE CONTROL

New Delhi, the 23rd August 1968

S.O. 3243.—In exercise of the powers conferred by clause (c) of sub-section (2) of section 4 of the Coffee Act, 1942 (7 of 1942), read with clause (c) of sub-rule (2) of rule 3 and sub-rule (1) of rule 4 of the Coffee Rules, 1955, the Central Government hereby appoints with effect from the 23rd August, 1968 the persons specified in the Table below to be members of the Coffee Board to represent the interests of labour and specifies that they shall hold office as members upto and inclusive of the 9th July, 1971:

THE TABLE

1. Shrimati Parvathi Krishnan,
Vice President, A.I.T.U.C.,
46, Periasamy Road,
R. S. Puram,
Coimbatore, Madras State.
2. Shri M. C. Narasimhan,
General Secretary,
Karnatak Pradesh Trade Union Congress,
70-A, Arcot Srinivasachar Street,
Bangalore-2, Mysore State.

[No. 1(2)Plant(B)/67.]

B. KRISHNAMURTHY, Under Secy.

New Delhi, the 24th August 1968

S.O. 3244.—In exercise of the powers conferred by section 3 of the Textiles Committee Act, 1963 (41 of 1963), read with rule 3 of the Textiles Committee Rules, 1965, the Central Government hereby appoints Shri Sitaram Jaipuria, Member, Rajya Sabha as member of the Textiles Committee and hereby makes the following amendments in the notification of the Government of India in the Ministry of Commerce S.O. No. 2788 dated the 19th July, 1968, namely:—

2. In the said notification, under the heading "Members", after item 5, the following item shall be added, namely:—

"6. Shri Sitaram Jaipuria
Members Rajya Sabha
Swadeshi House,
Civil Lines,
Kanpur."

[No. F. 19(23)-Tex(A)/67.]

CORRIGENDUM

New Delhi, the 24th August 1968

S.O. 3245.—In the notification of the Government of India in the Ministry of Commerce No. S.O. 2694, dated the 24th July, 1968, published at page 817, in the Gazette of India Extraordinary, Part II—Section 3—Sub-Section (ii), dated the 24th July, 1968, in clause 1, for "Second Amendment" read "Third Amendment".

[No. F. 21(14)-Tex(A)/68.]

H. K. BANSAL, Dy. Secy.

ORDER

New Delhi, the 28th November 1967

S.O. 3246.—Whereas by the Order of the Government of India in the late Ministry of Commerce & Industry S.O. 2245, dated the 15th September, 1961, read with the Order of the Government of India in the Ministry of Commerce No. S.O. 2734, dated 5th September, 1966, the management of the industrial undertaking known as Rai Saheb Rakhchand Gopaldas Mohta Spinning and Weaving Mills Ltd., Akola, has been taken over by the Authorised Controller referred to in the Order first mentioned above, for a period up to and inclusive of the 15th September, 1968;

And whereas the Central Government is of opinion that it is expedient in the public interest that the management of the said industrial undertaking by the said Authorised Controller should continue for a further period up to and inclusive of 15th September, 1969;

Now, therefore, in exercise of the powers conferred by the proviso to Sub-Section (2) of the Section 18A of the Industries (Development & Regulation) Act, 1951 (65 of 1951), the Central Government hereby directs that the Order first mentioned above shall continue to have effect for a further period up to and inclusive of 15th September, 1969.

[No. F. 17(3)/Tex(G)/68.]

DEVINDAR NATH, Jt. Secy.

(Office of the Jt. Chief Controller of Imports and Exports)

(Central Licensing Area)

ORDERS

New Delhi, the 28th November 1967

S.O. 3247.—M/s. D. H. Nasser and Co. Ltd., Manekia Chambers, 1st Marine Street, Bombay-2(BR) were granted an *ad hoc* licence No. E-082633/62-D/QL-4/NQQ/*Ad hoc* dated 8th February, 1963 for Rs. 1500/- for import of Asafoetida for February—July, 1963 licensing period. They have applied for duplicate customs and exchange control

copy of the said licence on the ground that the original customs and exchange control copies have been lost or misplaced. It is further stated by the party that the original custom copy of the licence was registered with the Assistant Collector of Customs, Amritsar but goods were not released then as the goods were found to be sub-standard. Later on the standard has been relaxed and the Director General of Health Services, New Delhi had advised for the release of the goods against bond undertaking therein that the goods would be sold to the manufacturers of compound Asafoetida.

2. In support of this declaration, the applicant has filed an affidavit duly attested by Oath Commissioner stating that the original custom and exchange control copy of the licence have been lost or misplaced.

3. I am satisfied that customs and exchange control copies of licence No. E-082633/62/D/QL/4/NQQ/Ad hoc dated 8th February, 1963 has been lost and direct that duplicate customs and exchange control copies be issued to the applicant. The original customs and exchange control copies of the licence are cancelled.

[No. 31-V/12/Iran/Feb-July-63/I.S./CLA.]

New Delhi, the 11th July 1968

S.O. 3248.—M/s. Punjab National Press, 377-Chitla Gate, Chawri Bazar, Delhi-6 were granted Import Licence No. P/SS/1575900/C/XX/25/CD/19-20 dated 26th October 1966 for imports of Wray Process Lense, Screen Circular, Aluminium Holder and Screen Rectangular worth Rs. 14,888/-. They have applied for a duplicate copy of Custom Purposes copy thereof on the ground that original Custom Purposes Copy of the Licence has been lost/misplaced. It is further stated that the original Custom Purposes Copy of the licence was registered with Delhi Custom House and was not utilised.

2. In support of this contention, the applicant has filed necessary affidavit as required under para 299(2) read with Appendix 8 of the I.T.C. Hand Book of Rules and Procedure, 1968. I am satisfied that the original Custom Purposes Copy of the Licence No. P/SS/1575900/C/XX/25/CD/19-20 dated 29th October 1966 has been lost/misplaced, and

3. In exercise of the powers conferred on me, under Clause 9(CC) Imports (Control) Order, 1955, dated 7th December 1955, as amended upto date, I order cancellation of the Custom Purposes Copy of the Import Licence No. P/SS/1575900/C/XX/25/CD/19-20 dated 26th October 1966.

4. The applicant are now being issued a duplicate Copy of the Custom Purposes of the said import licence, in accordance with para 299(2), I.T.C. Hand Book of Rules and Procedure, 1968.

[No. 305-IV/DEL-9/AM-65/AU-UT/CLA.]

New Delhi, the 24th July 1968

S.O. 3249.—A licence No. P/SS/1607365/C/XX/24/CD/23, 24 dated 6-9-67 of the value of Rs. 1339/- for import of Copper was issued to M/s. Bhama Eng. Works, P. O. Ratangarh Distt. Churu (Rajasthan) subject to the condition that all the items of the goods imported under it shall be used only in the licence holder's factory but no portion thereof shall be sold to an other party or utilised or permitted to be used in any other manner.

2. There after, a show cause notice No. B-24/67/ENF/CLA/1049 dated 29-4-68 was issued asking them to show cause within 15 days as to why the said licence in their favour should not be cancelled on the ground that the Central Government is satisfied that the licence will not serve the purpose for which it has been granted in terms of Clause 9, sub-clause (cc).

3. In response to the aforesaid show cause notice, M/s. Bhama Engg. Works, P. O. Ratangarh, Distt. Churu (Rj.) furnished no explanation.

4. Having regard to what has been stated in the preceding paragraph, the undersigned in exercise of the powers vested in him under Clause 9, sub-clause (cc) of the Imports (Control) Order, 1955 hereby cancel the licence No. P/SS/1607365/C/XX/24/CD dated 6-9-67 for Rs. 1,339/- issued in favour of M/s. Bhama Eng. Works, P. O. Ratangarh, Distt. Churu (Rajasthan).

[No. B-24/67/ENF/CLA/3790]

New Delhi, the 26th July 1968

S.O. 3250.—M/s. Fine Spinners Pvt. Ltd., Kashmir Road, Amritsar were granted an import licence No. P/SS/1606521/C dated 16-5-67 for Rs. 3,15,740/-. They have applied for duplicate copy

(Custom purposes copy only) of licence on the grounds that the original Customs purposes copy has been misplaced. It is, further stated that the original licence was registered with the Custom House, Bombay and was partly utilised for Rs. 1,87,867-67.

In support of this contention, the applicant has filed an affidavit. I am satisfied that the original Custom purposes copy of licence No. P/SS/1606521/C dated 16-5-67 has been lost and direct that the duplicate licence (custom purposes copy) should be issued to the applicant. The original custom purposes copy of licence is cancelled.

[No. WH/16/1967/EPS-III/CLA].

New Delhi, the 14th August 1968

S.O. 3251.—M/s. Sohan Singh Jagmohan Singh 27-Subzimandi, Delhi, were granted an *ad hoc* licence No. P/EI/0161866/TIR/27/CD/27/NQQ/Ad hoc dated 26th April, 1968, for Rs. 4,500/- for import of dates from Iraq for October-September, 1968 licensing period. They have applied for duplicate Customs and Exchange Control copy of the said licence on the ground that the original Customs and Exchange Control copies have been lost. It is further stated by the party that the original Customs copy of the licence was not registered with any customs authority and the licence was not utilised at all.

2. In support of this declaration, the applicant has filed an affidavit duly attested by Oath Commissioner stating that the original Customs and Exchange Control copy of the licence have been lost.

3. I am satisfied that Customs and Exchange Control copies of licence No. P/EI/0161866/TIR/27/CD/27/NQQ/Ad hoc dated 26th April, 1968, for Rs. 4,500/- have been lost and direct that duplicate Customs and Exchange Control copies be issued to the applicant. The original Customs and Exchange Control copies of the licence are cancelled.

[No. 21-IV/555/2-61/LVC/759/Iraq/OC-68(P.N.170/67)/I-S/CLA.]

S.O. 3252.—M/s. S. Mohan Singh, Shop No. 144, Subzimandi, Delhi were granted an *ad hoc* licence No. P/EI/0161868/TIR/27/CD/27/NQQ/Ad hoc dated 26th April, 1968, for Rs. 6,000/- for import of dates from Iraq for October—September, 1968, licensing period. They have applied for duplicate Customs and Exchange Control copy of the said licence on the ground that the original Customs and Exchange Control copies have been lost. It is further stated by the party that the original customs copy of the licence was not registered with any customs authority and licence was not utilized at all.

2. In support of this declaration, the applicant has filed an affidavit duly attested by an Oath Commissioner stating that the original Customs and Exchange Control copy of the licence have been lost.

3. I am satisfied that Customs and Exchange Control copies of the licence No. P/EI/0161868/TIR/27/CD/27/NQQ/Ad hoc dated 26th April, 1968, for Rs. 6,000/- has been lost and direct that duplicate Customs and Exchange Control copies be issued to the applicant. The original Customs and Exchange Control copies of the licence are cancelled.

[No. 21-IV/348/2-61/LVC/765/Iraq/OS-68 (P.N.170/67)/I-S/CLA.]

New Delhi, the 23rd August 1968

S.O. 3253.—A licence No. P/SS/1607663/C dated 16th September, 1967 of the value of Rs. 1755/- for import of Copper was issued to M/s. Kartar Industries, 114, Shiv Puri, Railway Road, Gurgaon.

2. Thereafter, a show cause notice No. K-19/65/ENF/CLA/2720 and 2721 dated 27th June, 1968 was issued asking them to show cause within fifteen days as to why the said licence in their favour should not be cancelled on the ground that the Central Government is satisfied that the licence will not serve the purpose for which it has been granted in terms of Clause 9, sub-Clause (cc).

3. The said show cause notice sent to them at Gurgaon address has been received back undelivered with the remarks of the postal authorities "Left without address" and the show cause notice sent at New Delhi address has been received by them as per A.D. received by this office, but no reply has been sent by them.

4. Having regard to what has been stated in the preceding paragraph, the undersigned is satisfied that the licence in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of the powers vested in him under Clause 9

sub-clause (cc) of the Imports (Control) Order 1955 hereby cancel the licence No. P/SS/1607663/C dated 16th September, 1967 for Rs. 1755/- issued in favour of M/s. Kartar Industries, 114 Shiv Puri, Railway Road, Gurgaon.

[No. K-19/65/ENF/CLA/4855-4856.]

S.O. 3254.—The following licences Nos:—

1. P/EI/0099330/C/XX/22/C-D/22, dated 22nd March, 1966 for Rs. 16,146 for standard books or books of reference etc.
2. P/EI/0099457/C/XX/23/24/C-D/23/24, dated 15th April, 1966 for Rs. 1,07,656 for books and periodicals.
3. P/EI/0102850/C/XX/23/24/C-D/21-22, dated 17th August, 1966 for Rs. 5,251. English language book society text books.
4. P/EI/0103087/C/XX/23/24/C-D/23/24, dated 1st September, 1966 for Rs. 1,07,656 for books and periodicals.
5. P/EI/0150102/C/XX/23/24/C-D/23/24, dated 23rd November, 1966 for Rs. 5,54,428 for standard technical books or books of reference etc.
6. P/EI/0159689/C/XX/25-26/C-D/25/26, dated 24th November, 1967 for Rs. 9,00,921 for books and periodicals.
7. P/EI/0159758/C/XX/25-26/C-D/25/26, dated 30th November, 1967 for Rs. 18,01,842 for standard technical books or books of reference etc.

were issued to M/s. S. A. Bros. & Co., Flat No. 28, New Central Market, Connaught Circus, New Delhi.

2. Thereafter, a show cause notice No. N-14/67/ENF/CLA-5348, dated 30th March, 1968 was issued asking them to show cause within 15 days as to why the said licences in their favour should not be cancelled on the ground that

- (i) you have committed breach of a condition on the licence.
- (ii) the Central Government is satisfied that these licences will not serve the purpose for which these had been granted.
- (iii) you have committed a breach of law relating to customs and the rules and regulations relating to the import of goods and of law relating to the regulations of foreign exchange.

in terms of Clause 9, sub-Clause (c), (cc) & (d) of the Import (Control) Order 1955, as amended.

3. In response to the aforesaid show cause notice, M/s. S. A. Bros. & Co., Flat No. 28, New Central Market, Connaught Circus, New Delhi had, by their letter dated 11th April, 1968 furnished a detailed explanation and had also asked for personal hearing with the undersigned which has allowed to them for 15th May, 1968, and again for 6th July, 1968, but they did not turn up.

4. In their written reply the firm contended that they have not breached the condition of any licences but in support of this contention they have *not* produced any evidence.

5. The undersigned has carefully examined the said representation and has come to the conclusion that the firm have violated the provisions of sub-clauses 5(3)(i)-(ii) of I.T.C. Order, 1955 as amended and reproduced at page 147 of the Hand Book of Rules and Procedure 1967.

6. Having regard to what has been stated in the preceding paragraph, the undersigned is satisfied that the licences in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of the powers vested in him under Clause 9 sub-Clauses (c) (cc) & (d) of the Imports (Control) Order, 1955 hereby cancel the licences mentioned above issued in favour of M/s. S. A. Bros. & Co., Flat No. 28, New Central Market, Connaught Circus, New Delhi.

[No. N-14/67/ENF/CLA/4866.]

New Delhi, the 24th August 1968

S.O. 3255.—The following licences Nos. :—

1. P/EI/0101325/C/XX/23/24/C/D/23/24, dated 1st July, 1966 for Rs. 1,21,190 for books and periodicals.
2. P/EI/0150103/C/XX/23/24/C/D/23/24, dated 23rd November, 1966 for Rs. 30,000 for standard technical books or books of reference etc.
3. P/EI/015103/C/XX/23/24/C/D/23/24, dated 23rd November, 1966 for Rs. 2,42,380 for standard technical books or books of reference etc.
4. P/EI/0157533/C/XX/26/C.D/25/26, dated 20th July, 1967 for Rs. 94,128 for books and periodicals.

were issued to M/s. Nandysons, Flat No. 28, New Central Market, Connaught Circus, New Delhi.

2. Thereafter, a show cause notice No. N-14/67/ENF/CLA-4966-4967, dated 19th February, 1968 were issued asking them to show cause within 15 days as to why the said licences in their favour should not be cancelled on the ground that these licences had been obtained on mis-representation in terms of Clause 9, sub-Clause (a) of the Import (Control) Order, 1955, as amended.

3. In response to the aforesaid show cause notice, M/s. Nandysons, A-306, Defence Colony, New Delhi had by their letter dated 5th March, 1968 furnished a detailed explanation and had also asked for personal hearing with the undersigned which was allowed to their Proprietor Shri S. K. Chandiyok for 15th May, 1968 and again for 6th July, 1968 but he did not turn up.

4. In their said reply the firm contended that they are a long standing concern with a good name and activity in existence but in support of this contention they have not produced any evidence.

5. The undersigned has carefully examined the said representation and has come to the conclusion that the firm have violated the provision of Clause 9, sub-Clause (a) of the Import (Control) Order, 1955 dated 7th December, 1955 as amended.

6. Having regard to what has been stated in the preceding paragraph, the undersigned is satisfied that the licences in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of the powers vested in him under Clause 9, sub-Clause (a) of the Imports (Control) Order, 1955 hereby cancel the licences mentioned above issued in favour of M/s. Nandysons, Flat No. 28, New Central Market, Connaught Circus, New Delhi.

[No. N-14/67/ENF/CLA/4919-4920.]

New Delhi, the 30th August 1968

S.O. 3256.—M/s. Ch. Abdullah H. Sk. Nannhey & Co., Fruit & Commission Agents, Subzi Mandi, Goldarwaza, Lucknow were granted an *ad hoc* import licence No. P/EI/0161732/T/TRQ/27/CD/26-27/NQQ/*Ad hoc* dated 4th March, 1968 for Rs. 3,400/- (Rupees three thousand & four hundred only) for import of dates from Iraq for October—September, 1968 Licensing Period. They have applied for the issue of a duplicate copy of each of the Customs purposes and the Exchange Control copies thereof, on the ground that their original copies have been lost/misplaced, without having been utilized and without having been registered with any Custom House.

2. The applicant have filed an affidavit, in support of their contention as required under para 299(2) read with Appendix 8 of the I.T.C. Hand Book of Rules & Procedure 1968. I am satisfied, the original Customs purposes and Exchange Control copies have been lost/misplaced, and

3. In exercise of the powers conferred on me, under clause 9(cc) Import (Control) order 1955 dated 7th December, 1955, as amended upto date, I order cancellation of both, the Customs purposes and the Exchange Control copies of the Import Licence No. P/EI/0161732/T/TRQ/26-27/CD/26-27/NQQ/*Ad hoc* dated 4th March, 1968.

4. The applicant are not being issued a duplicate copy of each of the Customs purposes and the Exchange Control copies of the said licence, in accordance with para 299(2), I.T.C. Hand Book of Rules & Procedure 1968.

[No. 21(B)-IV/660/Iraq/OS-68 (P.N. 170/67)/I-S/CLA.]

New Delhi, the 2nd September 1968

S.O. 3257.—A licence No. P/SS/1608596/C dated 27th November, 1967 of the value of Rs. 25,000/- for import of Benziding dihydrochloride was issued to M/s. Jagdamba Industrial Corporation, Lawrence Road, Rampura, Delhi.

2. Thereafter, a show cause notice No. J-15/67/ENF/CLA/5076 dated 29th February, 1968 was issued asking them to show cause within 15 days as to why the said licence in their favour should not be cancelled on the ground that they have committed breach of the condition of licence No. P/SS/1502504/C/OR/20/C/H/20/RPC in terms of Clause 9, sub-Clause (c).

3. In response to the aforesaid show cause notice, M/s. Jagdamba Industrial Corporation, Lawrence Road, Rampura, Delhi sent a letter dated 18th March, 1968 but did not give any satisfactory explanation.

4. Having regard to what has been stated in the preceding paragraph, the undersigned is satisfied that the licence in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of the powers vested in him under Clause 9, Sub-Clause (c) of the Imports (Control) Order 1955 hereby cancel the licence No. P/SS/1608596/C dated 27th November, 1967 for Rs. 25,000/- issued in favour of M/s. Jagdamba Industrial Corporation, Lawrence Road, Rampura, Delhi.

M/s. Jagdamba Industrial Corporation,
Lawrence Road, Rampura, DELHI.

[No. J-15/67/ENF/CLA/5405.]

J. S. BEDI,

Jt. Chief Controller of Imports & Exports.

(Office of the Deputy Chief Controller of Imports and Exports Panjim—Goa)

ORDERS

Panjim, the 5th July 1968

SUBJECT:—*Order for cancellation of Customs purposes copies of licences Nos. P/EI/0139334/C/XX/25/C/G/25-26, dated 2nd September, 1967, for Rs. 750/- and P/EI/0139403/C/XX/26/C/G/25-26, dated 17th October, 1967, for Rs. 1,000/- issued in favour of M/s. Antonio Jose Estevam Guilherme Dias, Velcao, Mormugao Goa.*

S.O. 3258.—M/s. Antonio Jose Estevam Guilherme Dias, Mormugao were granted two import licences Nos. P/EI/0139334 dated 2nd September, 1967 for Rs. 750/- for import of Brandy, gin and whisky and P/EI/0139403 dated 17th October, 1967, for Rs. 1,000/- for import of Wines from General Area. They have applied for duplicate Customs purposes copies of the above-mentioned licences on the ground that the original Customs purposes copies of licences have been lost or misplaced. It is further stated that the original licences are not registered with any Customs House and not utilised at all.

In support of this contention the applicant has filed two affidavits on stamped papers duly attested. I am satisfied that the original licences Nos. P/EI/0139334 dated 2nd September, 1967 and P/EI/0139403 dated 17th October, 1967 have been lost or misplaced and direct that the duplicate Customs purposes copies of licences should be issued to the applicant. The original licences Nos. P/EI/0139334 dated 2nd September, 1967 and P/EI/0139403 dated 17th October, 1967 are cancelled.

[No. EI/84-IV/40/AM68.]

Panjim, the 3rd September 1968

SUBJECT:—*Order for cancellation of Customs and Exchange Control Purposes copies of licence No. P/EI/0004991/C/XX/25/C/G/25-26 dated 24th June, 1967 for Rs. 2,417/- issued in favour of M/s. Mustakhuseen Gulamhusein Ghila, Daman.*

S.O. 3259.—M/s. Mustakhuseen Gulamhusein Ghila of Daman were granted import licence No. P/EI/0004991 dated 24th June, 1967 for Rs. 2,417/- for import of parts of watches from General Area. They have applied for duplicate Customs and Exchange Control Purposes copies of the above-mentioned licence on the ground that both the copies of above licence have been lost or misplaced. It is further stated that the original licence is not registered with any Custom House and not utilised at all.

In support of this contention the applicant has filed an affidavit on stamped paper duly attested. I am satisfied that both the copies of original licence No. P/EI/0004991 dated 24th June, 1967 have been lost or misplaced and direct that the duplicate Customs purposes

and Exchange Control purposes copies of the licence should be issued to the applicant. Both the copies of original licence No. P/EI/0004991 dated 24th June, 1967 are cancelled.

[No. EI/308-d-IV/33/AM68.]

R. D. PAWAR,

Dy. Chief Controller of Imports & Exports.

(Office of the Jt. Chief Controller of Imports and Exports, Calcutta)

ORDERS

Calcutta, the 17th July 1968

S.O. 3260.—A licence No. P/AU/1280802/C/XX/26/C/C/23-24 dated 29th March, 1968 of the value of Rs. 37485/- for import of Carbon Steel Sheets was issued to M/s. Spin Well Private Ltd., 6, Debarjang Road, Cossipore, Calcutta-2, subject to the conditions as under —

- (a) This licence is issued subject to the condition that all items of goods imported under it, shall be used only in the licence holders' factory at the address shown in the essentiality certificate issued by the recommending authority against which the licence is issued and no portion thereof will be utilised by the licensee for a unit purpose other than the one for which the licence in question is issued or will be sold or be permitted to be utilised by any other party.

2. Thereafter, show cause notice No. 250/62/E&L., dated 1st June, 1968, was issued asking them to show cause within 15 days as to why the said licence in their favour should not be cancelled on the ground that the goods are indigenously available in terms of Clause 9, sub-clause (a) and (b).

3. In response to the aforesaid show cause notice, M/s. Spin Well Private Ltd., 6, Debarjang Road, Cossipore, Calcutta-2 had by their letter dated 11th June, 1968, furnished a detailed explanation and had also asked for personal hearing with the undersigned which was allowed to their representative on 21st June, 1968. In their said reply and at the time of personal hearing, the firm contended that the goods are not indigenously available.

4. The undersigned has carefully examined the said representation and has come to the conclusion that the goods are indigenously available and licence was issued contrary to the Rules.

5. Having regard to what has been stated in the proceeding paragraph, the undersigned is satisfied that the licence in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of the powers vested in him under Clause 9 sub-clause (a) & (b) of the Imports (Control) Order, 1955 hereby cancel the licence No. P/AU/1280802/C/XX/26/C/C/23-24 dated 29th March, 1968 for Rs. 37485/- issued in favour of M/s. Spin Well Private Ltd., 6, Debarjang Road, Cossipore, Calcutta-2.

[No. 250/62/E&L.]

S.O. 3261.—A licence No. P/AU/12080804/C/XX/26/C/C/23-24 dated 29th March, 1968 of the value of Rs. 7700/- for import of High Carbon High Chromium Die Steel was issued to M/s. Spin Well Private Ltd., 6, Dibarjang Road, Cossipore, Calcutta-2 subject to the conditions as under:—

- (a) This licence is issued subject to the condition that all items of goods imported under it, shall be used only in the licence holder's factory at the address shown in the Essentiality Certificate issued by the recommending authority against which the licence is issued and no portion thereof will be utilised by the licensee for a unit purpose other than the one for which the licence in question is issued or will be sold or be permitted to be utilised by any other party.

2. Thereafter, a show cause notice No. 250/62/E&L., dated 1st June, 1968, was issued asking them to show cause within 15 days as to why the said licence in their favour should not be cancelled on the ground that the goods are indigenously available in terms of clause 9, sub-clause (a) & (b).

3. In response to the aforesaid show cause notice, M/s. Spin-Well Private Ltd., 6, Debarjang Road, Calcutta-2 had, by their letter dated 11th June, 1968 furnished a detailed explanation and had also asked for personal hearing with the undersigned which was allowed to their representative on 21st June, 1968. In their said reply and at the time of personal hearing, the firm contended that the goods are not available indigenously.

4. The undersigned has carefully examined the said representation and has come to the conclusion that the items are indigenously available and licence was issued contrary to the Rules.

5. Having regard to what has been stated in the preceding paragraph, the undersigned is satisfied that the licence in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of the powers vested in him under Clause 9, sub-clause (a) & (b) of the Imports (Control) Order, 1955 hereby cancel the licence No. P/AU/1280804/C/XX/26/C/C/23-24 dated 29th March, 1968 for Rs. 7700/- issued in favour of M/s. Spin-Well Private Ltd., 6, Debarjang Road, Cossipore, Calcutta-2.

[No. 250/62/E&L.]

Calcutta, the 20th August 1968

S.O. 3262.—1 licence Nos. P/AU/1280380/C/XX/26/C/C/23-24 dated 21st February, 1968 of the value of Rs. 1591/- for import of High Carbon High Chromium Steel and P/AU/1280379/C/XX/26/C/C/23-24 dated 21st February, 1968, for the value of Rs. 10723/- for import of High Speed Steel was issued to M/s. S. P. Manufacturing Co., 22, Brabourne Road, Calcutta-1 subject to the conditions as under:—

(a) all items imported under it shall be used only in the licence holders' factory at the address shown in the application against which the licence is issued and no portion thereof will be utilised by the licensee for a unit/purpose other than the one for which the licence in question is issued, or will be sold or permitted to be utilised by any other party.

2. Thereafter, a show cause notice No. 69/67/E&L dated 16th July, 1968, was issued asking them to show cause within 15 days as to why the said licence in their favour should not be cancelled on the ground that the licence in question was issued inadvertently in terms of Clause 9, sub-clause (a).

3. No response to the aforesaid show cause notice had been received.

4. The undersigned has carefully examined the case and has come to the conclusion that the licence in question was issued inadvertently as the import of the item is banned.

5. Having regard to what has been stated in the preceding paragraph, the undersigned is satisfied that the licence in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of the powers vested in him under Clause 9 sub-clause (a) of the Imports (Control) Order, 1955 hereby cancel the licences Nos. P/AU/1280380/C/XX/26/C/C/23-24 and P/AU/1280379/C/XX/26/C/C/23-24 both dated 21st February, 1968 for Rs. 1591/- and 10723/- respectively issued in favour of M/s. S. P. Manufacturing Co., 22, Brabourne Road, Calcutta.

[No. 69/67/E&L.]

Calcutta, the 30th August 1968

S.O. 3263.—A licence No. P/SS/1628895/C/XX/27/C/25-26 dated 25th May, 1968 of the value of Rs. 1756/- for import of Silicon import of Silica Gell was issued to M/s. G. P. Indrani Engineering Works, Barasat, Chandernagar, Hooghly subject to the conditions as under:—

(a) all items imported under it shall be used only in the licence holders' factory at the address shown in the application against which the licence is issued and no portion thereof will be utilised by the licensee for a unit/purpose other than the one for which the licence in question is issued or will be sold or permitted to be utilised by any other party. The licence shall maintain proper account of consumption and utilisation of the goods imported against the licence.

2. Thereafter, a show cause notice No. 87/68/E&L dated 3rd July, 1968 was issued asking them to show cause within 15 days as to why the said licence in their favour should not be cancelled on the ground that there is no existence of their factory at the address given in the application in terms of Clause 9, sub-clause (cc).

3. The aforesaid show cause notice, M/s. G. P. Indrani Engineering Works, Hooghly had been returned undelivered by the Postal Authorities with the remarks "Firm abolished".

4. The undersigned has carefully examined the case and has come to the conclusion that the purpose for which licence in question was issued would not be served.

5. Having regard to what has been stated in the preceding paragraph, the undersigned is satisfied that the licence in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of the powers vested in him under Clause 9 sub-clause (cc) of the Imports (Control) Order, 1955 hereby cancel the licence No. P/SS/16288/5/C/XX/27/C/25-26 dated 25th May, 1968 for Rs. 1756/- issued in favour of M/s. G. P. Indrani Engineering Works, Barasat, Chandernagar, Hooghly.

[No. 87/68/E&L.]

Calcutta, the 3rd September 1968

S.O. 3264.—A licence No. P/AU/1280382/C/XX/26/C/C/23-24 dated 26th February, 1968 of the value of Rs. 9716/- for import of Tool and Alloy Steel was issued to M/s. Spinning Accessories Pvt. Ltd., 34, Baranashi Ghosh Street, Calcutta-7 subject to the conditions as under:—

(a) This licence is issued subject to the condition that all items of goods imported under it, shall be used only in the licence holders' factory at the address shown in the Essentiality Certificate issued by the recommending authority against which the licence is issued and no portion thereof will be utilised by the licensee for a unit purpose other than the one for which the licence in question is issued, or will be sold or be permitted to be utilised by any other party.

2. Thereafter, a show cause notice No. 107/68/E&I. dated 16th July, 1968 was issued asking them to show cause within 15 days as to why the said licence in their favour should not be cancelled on the ground that the goods are indigenously available and the importation of the item is banned in terms of Clause 9, sub-clause (a).

3. In response to the aforesaid show cause notice, M/s. Spinning Accessories Pvt. Ltd., Calcutta had, by their letter dated 6th August, 1968 furnished a detailed explanation and had also asked for personal hearing with the undersigned which was allowed to their representative on 29th August, 1968. In their said reply and at the time of personal hearing, the firm contended the licence in question was issued on the basis of the recommendation made by the Jute Commissioner, Calcutta.

4. The undersigned has carefully examined the said representation and has come to the conclusion that the licence in question was issued inadvertently as the import of the item is banned.

5. Having regard to what has been stated in the preceding paragraph, the undersigned is satisfied that the licence in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of the powers vested in him under Clause 9, sub-clause (a) of the Imports (Control) Order, 1955 hereby cancel the licence No. P/AU/1280382/C/XX/26/C/C/23-24 dated 26th February, 1968 for Rs. 9716/- issued in favour of M/s. Spinning Accessories Pvt. Ltd., 34, Baranashi Ghosh Street, Calcutta-7.

[No. 107/68/E&L.]

J. MUKHERJI,

Dy. Chief Controller of Imports & Exports.

(Office of the Chief Controller of Imports and Exports)

New Delhi, the 31st July 1968

S.O. 3265.—In exercise of the powers conferred by clause 9(cc) of the Imports (Control) Order, No. 17/55, dated 7th December, 1955, as amended from time to time, the undersigned hereby cancels the import licence No. G/DG/2105828/C/XX/25/C/H/23, dated 3rd June, 1967 for Rs. 33547/- (both copies partly utilised), for the import of "Electronic Valves" falling under Serial No. 289-290/IV of the I.T.C. Schedule issued in favour of M/s. Union Radio and Appliances (Private) Ltd., New Delhi.

The reason for cancellation of this licence is that it has been lost by the Postal Authorities, New Delhi and a duplicate copy of the same is being issued to enable the firm to clear the goods from the Customs already imported against the captioned licence and also effect shipment of goods lying ready with their Principals for shipment.

[No. F. 1-U/Cont/67-68/GLS/214.]

S. A. SESHAN,

Deputy Chief Controller of Imports and Exports.

(Office of the Chief Controller of Imports and Exports, New Delhi)

ORDER

New Delhi, the 2nd August 1968

S.O. 3266.—M/s. Fleet Fasteners Private Limited, 'Delstar' 9-9A, Hughts Road, Bombay-26 were granted an import licence No. P/RM/2156118, dated 17th January, 1967 for Rs. 3,630/- (Rupees three thousand six hundred and thirty only). They have applied for the issue of a duplicate Customs copy of the licence on the grounds that the original Customs copy has been lost. It is further stated that the original licence was not registered with Customs and not utilised at all.

2. In support of their contention the applicants have filed an affidavit. The undersigned is satisfied that the original Customs Copy of the licence has been lost. Therefore, in exercise of powers conferred under sub-clause 9(cc) of the Import (Control) Order 1955, dated 7th December, 1965, as amended the said original Customs Purposes Copy of licence No. P/RM/2156118, dated 17th January, 1967, issued to M/s. Fleet Fasteners Private Limited, Bombay-26, is hereby cancelled.

3. A duplicate Customs Copy of the said licence is being issued separately to the licensee.

[File No. ZF (4-ABC)/66-67/RM.I]

P. C. VERMA, Dy. Chief Controller of Imports and Exports.

(Office of the Chief Controller of Import & Exports)

ORDER

New Delhi, the 9th August 1968

S.O. 3267.—M/s. Eupharma Laboratories, 229-230, Vadala Udyog Bhavan, Naigaun, Cross Road, Wadala Bombay, 31, were granted an import licence No. P/NA/AU/1253937/C/XX/23/C/H/21-22, dated 10th January, 1967, for Rs. 96,582/- (Rupees ninety six thousand three hundred and eighty two only) for the import of Pharmaceuticals raw-materials and fifteen all-category items as per two lists attached thereto under the National Defence Remittance Scheme. They have now represented to this office that they have lost/misplaced the Original Customs Purposes copy of the licence and have applied for the issue of a Duplicate copy in lieu thereof. They have further stated that the original Customs Purposes copy of the licence was registered with the Customs House, Bombay and the licence was utilised to the extent of Rs. 40132/-. The Duplicate copy now required by the firm is to cover the balance value of Rs. 56,250/- (Fifty-six thousand two hundred and fifty only).

In support of this contention the applicant has filed an affidavit and furnished a Certificate from the Customs Authorities, Bombay. I am accordingly satisfied that the Original Customs Purposes copy of the said licence has been lost. Therefore, in exercise of the powers conferred under sub-clause 9(cc) of the Import (Control) Order, 1955 dated 7th December, 1955 (as amended) the original Customs Purposes copy of licence No. P/NA/AU/1253937/C/XX/23/C/H/21-22, dated 10th January, 1967, issued to M/s. Eupharma Laboratories, 229-230, Vadala Udyog Bhavan, Naigaun Cross Road, Wadala, Bombay, 31, is hereby cancelled.

3. Replicate of Customs purposes copy of the said licence is being issued separately to the licensee.

[No. NDRS/E-199/65/66/332.]

S. K. GREWAL, Dy. Chief Controller of Imports and Exports.

(Office of the Chief Controller of Imports & Exports)

(Baggage Licensing Section)

ORDER

New Delhi, the 20th August, 1968

S.O. 3268.—Shri Udai Pareek was granted Custom Clearance Permit No. P/CC/2360281/N/YY/27/C/H dated 6th April, 1968 for import of his car. He has applied

for duplicate of the Customs Clearance Permit on the ground that the original Customs Clearance Permit has been lost or misplaced. It is further stated that the original Customs Clearance Permit was not registered with any Customs House and not utilized.

In support of this Shri Udai Pareek has filed an affidavit, I am satisfied that the original Customs Clearance Permit No. P/CC/2360281 dated 6th April, 1968 has been lost or misplaced and direct that duplicate may be issued to him.

The original Customs Clearance Permit is cancelled.

[No. 2(B-661)/67-68/BLS/2855.]

New Delhi, the 21st August 1968

S.O. 3269.—Shri Sunder Lal Goel was granted the Customs Clearance Permit No. P/J/2363735/N/MC/27/H/27-28, dated 20th June, 1968 for import of his car. He has applied for duplicate of Customs Clearance Permit on the ground that the original Customs Clearance Permit has been lost or misplaced. It is further stated that the original Customs Clearance Permit was not registered with any Customs House and not utilised.

In support of this contention Shri Sunder Lal Goel has filed an affidavit. I am satisfied that the original Customs Clearance Permit No. P/J/2363735, dated 20th June, 1968 has been lost or misplaced and direct that duplicate may be issued to him.

The original custom clearance permit is cancelled.

[No. 2(B-58)/68-69/BLS/2766.]

P. C. NANDA, Dy. Chief Controller of Imports and Exports.
for Chief Controller of Imports and Exports.

(Office of the Chief Controller of Imports & Exports, New Delhi)

ORDERS

New Delhi, the 22nd August 1968

S.O. 3270.—M/s. Walchandnagar Industries Ltd., Construction House, Ballard Estate, Fort, Bombay-1 were granted an import licence No. 997500/60/HQ-CG dated 25th April, 1961, for Rs. 17,95,000/- (Rupees seventeen lakhs and ninety-five thousand only). They have applied for the issue of a duplicate Customs Purposes copy of the said licence on the ground that the original Customs Purposes copy has been lost/misplaced. It is further stated that the original Customs Purposes copy was registered with the Customs authorities at Bombay, and utilised partly. It was utilised for Rs. 17,63,467/- and the balance available on it was Rs. 31,513/-.

2. In support of this contention, the applicant has filed an affidavit alongwith a certificate from Collector of Customs, Bombay. I am accordingly satisfied that the original Customs Purposes copy of the said licence has been lost. Therefore, in exercise of the powers conferred under Sub-clause 9(cc) of the Imports (Control) Order 1955 dated 7th December, 1955 as amended, the said original Customs Purposes copy of licence No. 997500/60/HQ-CG dated 25th April, 1961, issued to M/s. Walchandnagar Industries Ltd., is hereby cancelled.

3. A duplicate Customs Purposes copy of the said licence is being issued separately to the licensee.

[No. 46(477)2-60/CG.I/580.]

S.O. 3271.—M/s. Frick India Ltd., 13/3-Main Mathura Road, Faridabad, Haryana were granted an import licence No. P/CG/2040817/T/TR/18/C/H/17 dated 9th April, 1964, for Rs. 12,43,910/- (Rupees twelve lakhs, forty-three thousand, nine hundred and ten only). They have applied for the issue of a duplicate Exchange Control Purposes copy of the said licence on the ground that the original Exchange Control copy has been lost/misplaced. It is further stated that the original Exchange Control copy was registered with the First National City Bank, 3-Parliament Street, New Delhi and utilised partly. It was utilised for Rs. 11,46,191/- and the balance available on it was Rs. 95,719/-.

2. In support of this contention, the applicant has filed an affidavit. I am accordingly satisfied that the original Exchange Control Purposes copy of the said licence has been

lost. Therefore, in exercise of the powers conferred under Sub-clause 9(cc) of the Imports (Control) Order 1955 dated 7th December, 1955, as amended, the said original Exchange Control Purposes copy of Licence No. P/CG/2040817 dated 9th April, 1964, issued to M/s. Frick India Ltd., is hereby cancelled.

3. A duplicate Exchange Control Purposes copy of the said licence is being issued separately to the licensee.

[No. 4(189)/62-63/CG.I/583.]

H. D. GUPTA,

Deputy Chief Controller of Imports & Exports.

(Office of the Chief Controller of Imports & Exports, New Delhi)

ORDER

New Delhi, the 2nd September 1968

S.O. 3272.—M/s. Hordillia Chemicals Ltd., Bombay were granted Licence No. P/RM/2160664, dated 18th August, 1967 from G.C.A. for import of raw materials valued at Rs. 22,000. They have requested for the issue of duplicate copy of Exchange Control Purposes copy of the licence on the ground that the original Exchange Control Purposes copy of the licence has been lost by their bankers. It has been further reported by the licensee that the licence was lost after being utilised to the extent of Rs. 19,974. The licence has been registered with Collector of Customs, Bombay.

In support of their contention the applicant has filed an affidavit. The undersigned is satisfied that the original Exchange Control Purposes copy of licence No. P/RM/2160664 dated 18th August, 1967 has been lost and directs that duplicate Exchange Control Purposes copy of the said licence should be issued to them. The original Exchange Control Purposes copy of licence No. P/RM/2160664 dated 18th August 1967 is cancelled. A duplicate Exchange copy of the licence is being issued separately.

[No. Ch/H-1(6)AM 68/RM 3/968.]

G. D. BAHL,

Dy. Chief Controller of Imports & Exports.

MINISTRY OF FOOD, AGRICULTURE, COMMUNITY DEV. & COOPERATION

(Department of Agriculture)

New Delhi, the 31st August 1968

S.O. 3273.—In exercise of the powers conferred by clause (f) of section 3 of the Agricultural Produce (Grading and Marking) Act, 1937, and clause (i) of rule 4 of the General Grading and Marking Rules, 1937, and in partial modification of the notification of the Government of India in the Ministry of Food, Agriculture, Community Development and Cooperation (Department of Agriculture), No. S.O. 359, dated the 20th January, 1965, the Central Government hereby fixes the following charges for Agmark labels to be affixed on the containers of cumin seeds graded under Agmark, namely—

- | | |
|---|--------------------------|
| (a) When the grading is done in any authorised premises, within the State of Gujarat. | Rs. 0-10 P. per quintal. |
| (b) When the grading is done in any authorised premises except within the State of Gujarat. | Rs. 0-50 P. per quintal. |

[No. F. 13-16/67-A.M.]

V. S. NIGAM, Under Secy.

(Department of Agriculture)

New Delhi, the 2nd September 1968

S.O. 3274.—Whereas the Municipal Corporation of Madras has, in pursuance of clause (e) of sub-section (1) of section 5 of the Prevention of Cruelty to Animals Act, 1960

(59 of 1960), elected Shri K. Loganathan as its representative on the Animal Welfare Board with effect from the 9th July, 1968;

And whereas the All Lovers of Animals Society, Calcutta, has in pursuance of clause (f) of sub-section (1) of section 5 of the said Act chosen Shri P. N. Chatterjee as its representative on the Animal Welfare Board with effect from the 7th May, 1968;

Now, therefore, in pursuance of section 5 of the said Act, the Central Government hereby directs that Shri K. Loganathan shall continue to be a member of the Animal Welfare Board, and makes the following further amendments in the notification of the Government of India in the late Ministry of Food and Agriculture (Department of Agriculture) No. S.O. 921, dated the 20th March, 1962, namely:—

In the said notification, in the entries relating to item 10A—

- (i) in the first column, for the existing entry, the following entry shall be substituted, namely:—

“Shri P. N. Chatterjee, 9, Lovelock Place, Ballygunge, Calcutta-19”;

- (ii) in the second column, for the words “the Central Council of Gosamvardhana in New Delhi”, the words “The Lovers of Animal Society, Calcutta” shall be substituted.

[No. 18-6/68-L.D.III.]

SANTOKH SINGH, Under Secy.

(Department of Agriculture)

Bombay, the 4th September 1968

COMMITTEE FOR THE PURPOSE OF CONTROLLING AND SUPERVISING
EXPERIMENTS ON ANIMALS

S.O. 3275.—In exercise of the powers conferred by section 17 of Chapter IV of the Prevention of Cruelty to Animals Act, 1960 (59 of 1960), the Committee for the Purpose of Controlling and Supervising Experiments on Animals, hereby makes the following rules, which shall come into force with effect from 4th October, 1968, the same having been published in the Gazette of India, Part II Section (3) Sub-Section (ii) Notification No. S.O. 2479 dated 13th July, 1968, as required by the said section namely:—

EXPERIMENTS ON ANIMALS (CONTROL AND SUPERVISION) RULES 1968

1. Short title.—These rules may be called the Experiments on Animals (Control and Supervision) Rules, 1968.

2. Definitions.—In these Rules, unless the context otherwise requires:—

- (a) “Act” means the Prevention of Cruelty to Animals Act, 1960 (59 of 1960);
- (b) “Committee” means the Committee constituted under section 15 of the Act, for Controlling and Supervising Experiments on Animals;
- (c) “Experiment” means any experiment performed on any living animal including an operation for the purpose of discovering something unknown or testing some hypothesis or establishing or illustrating some truth.

3. Stocking of animals.—The animals shall be stocked in the following manner, namely:—

- (a) animal houses shall be located in a quiet atmosphere undisturbed by traffic, and the premises kept tidy, and hygienic and the animals protected from draught and extremes of weather;
- (b) animal cages for small animals and stables for larger animals shall be such that animals can live in comfort and overcrowding is avoided;
- (c) where standards have been laid down by the Indian Standards Institution, the cages and the stables, as the case may be, shall conform to those standards;
- (d) animal attendants shall be suitably trained and sufficiently experienced in the duties allotted to them;
- (e) animals shall be looked after, before, during and after the experiments by a trained and experienced attendant;
- (f) there shall be satisfactory arrangements for looking after the animals during off hours and on holidays;

- (2) Nothing in sub-rule (1) shall apply to animals for field experiments performed under emergency or special circumstances.

4. **Conduct of Experiments.**—In conducting experiments on animals, regard shall be had to the following conditions, namely:—

- (a) experiments shall be performed in every case by or under the supervision of persons duly qualified in that behalf, viz., Degree or Diploma holders in Medical or Veterinary or other Science or Pharmacy or Natural Science of a recognised University or an Institution recognised by Government for the purpose, in a Laboratory adequately equipped and staffed for the purpose and under the responsibility of the person performing the experiment. In the case of a teaching, research or a Pharmaceutical concern, the responsibility therefor shall be placed also on the person in charge of the Institution;
- (b) experiments shall be performed with due care and humanity;
- (c) minimum number of animals shall be used in an experiment, but at the same time meeting the statistical requirements;
- (d) Experiments involving operative procedure more severe than simple inoculation or superficial venesection shall be performed under the influence of anaesthetic of sufficient power to prevent the animal feeling pain and it shall remain so throughout the experiment. Provided that where the services of a Veterinary Surgeon are not available, a person adequately trained in methods of anaesthesia, shall be allowed to administer anaesthesia, and the anaesthetist shall remain present near the animal till the completion of the experiment;
- (e) animals which in the course of experiments under the influence of anaesthetic are so injured that their recovery would involve pain or suffering shall be destroyed humanely while still insensible;
- (f) when there is reason to believe that an animal is suffering abnormal or severe pain at any stage of a continuing experiment, it shall be painlessly destroyed at that stage without proceeding with the experiment;
- (g) the experiment shall not be performed for the purpose of attaining or retaining manual skill. This condition shall not apply to provided that (i) students at the Veterinary Colleges, who shall be permitted to perform surgical operations on living animals subject to that animals are under deep anaesthesia and the operations are performed under the direct supervision of an expert teacher (ii) experts in the Medical field for performing high type of surgery on animals;
- (h) experiment shall not be performed by way of an illustration of lecture in medical, veterinary and other science schools or colleges, and hospitals or elsewhere if other teaching devices such as books, models, films and the like where available can equally serve the purpose, provided that wherever possible such alternative methods like tissue culture or Biochemical methods may be used;
- (i) experiments shall not be performed as a public demonstration except for advancement of knowledge;
- (j) the substance known as Urari or Curari or any such paralytant shall not be used or administered for the purpose of any experiment except in conjunction with anaesthetic of sufficient depth to produce loss of consciousness;
- (k) except for purposes of research, no experiment the result of which is already conclusively known, shall be repeated solely for the purpose of repetition;
- (l) there shall not be applied to the eye of animal by way of experiment any chemical substance for the purpose of absorption through the conjunctival membrane or through the cornea calculated to give pain;
- (m) dogs held for experimental purposes in animal houses shall not be debarked.

5. **Records.**—Every person performing an experiment, and where the experiment is performed in an institution, the person in charge thereof, shall maintain a chronological record of the experiments carried on by him or in the Institution, as the case may be, in which shall be entered in brief, the nature of the experiment, the animals used, the course and the result thereof, manner of final disposal of animals and such other information as the Committee may from time to time require.

Provided that no information shall be disclosed relating to any experiment, which is likely to put any person in trade or business in possession of such information or knowledge, which upholds any existing or prospective patent rights.

[No. 5-1/68/INS.]

S. R. CHADHA, Secy and Chief Administrative Officer.